

111TH CONGRESS
1ST SESSION

H. R. 3047

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2009

Ms. WOOLSEY (for herself, Mr. HARE, Ms. DELAURO, Ms. LEE of California, Mr. OLVER, Mr. SERRANO, Mr. BISHOP of New York, Mr. ELLISON, Mr. STARK, Ms. ZOE LOFGREN of California, Mrs. MALONEY, Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. HINCHEY, Mr. KILDEE, Mr. PAYNE, Ms. WATSON, Mr. GRIJALVA, Mr. FARR, Ms. SCHAKOWSKY, Ms. WATERS, Mr. McDERMOTT, Ms. HIRONO, and Mr. HONDA) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Oversight and Government Reform, Armed Services, Ways and Means, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Balancing Act of 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

**TITLE I—PAID LEAVE FOR NEW PARENTS AND FAMILY AND
MEDICAL LEAVE ENHANCEMENT ACT OF 2009**

Subtitle A—Paid Leave for New Parents

Sec. 101. Short title.

Sec. 102. General definitions.

PART 1—FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

Sec. 111. Program definitions.

Sec. 112. Establishment of program.

Sec. 113. Program benefits.

Sec. 114. Voluntary employer plan.

Sec. 115. Additional benefits.

Sec. 116. Prohibited acts by employer.

Sec. 117. Enforcement.

Sec. 118. Penalties.

Sec. 119. Education programs.

Sec. 120. Regulations.

Sec. 121. Effective date.

**PART 2—CIVIL SERVICE FAMILY AND MEDICAL LEAVE INSURANCE
PROGRAM**

Sec. 131. Program definitions.

Sec. 132. Establishment of program.

PART 3—FAMILY AND MEDICAL LEAVE INSURANCE FUND

Sec. 141. Establishment.

Sec. 142. Board of trustees.

Sec. 143. Investment of the Family and Medical Leave Insurance Fund.

Sec. 144. Payments from Family and Medical Leave Insurance Fund.

Sec. 145. Administrative expenses.

Sec. 146. Amendments to the Internal Revenue Code of 1986.

Subtitle B—Family and Medical Leave Enhancement Act of 2009

Sec. 151. Short title.

Sec. 152. Eligible employee.

Sec. 153. Entitlement to additional leave under the FMLA for parental involve-
ment and family wellness.

Sec. 154. Entitlement of Federal employees to leave for parental involvement and family wellness.

Subtitle C—Domestic Violence Leave Act

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

Subtitle D—Healthy Families Act

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

Subtitle E—Family and Medical Leave Enhancement Act of 2009

Sec. 191. Short title.
 Sec. 192. Eligible employee.
 Sec. 193. Entitlement to additional leave under the FMLA for parental involvement and family wellness.
 Sec. 194. Entitlement of Federal employees to leave for parental involvement and family wellness.

TITLE II—CHILD CARE EXPANSION AND IMPROVEMENT

Subtitle A—Education Begins at Home

Sec. 201. Short title.
 Sec. 202. Purposes.
 Sec. 203. Definitions.
 Sec. 204. Grants for early childhood home visitation.
 Sec. 205. Targeted grants for early childhood home visitation for families with English language learners.
 Sec. 206. Targeted grants for early childhood home visitation for military families.
 Sec. 207. Evaluation.
 Sec. 208. Reports to Congress.
 Sec. 209. Supporting new parents through hospital education.

Subtitle B—Care for Young Children

Sec. 215. Expanding child care for young children.

Subtitle C—Improving Child Care Quality Through Teacher Incentives

- Sec. 221. Purpose.
- Sec. 222. Definitions.
- Sec. 223. Funds for child care provider development and retention grants, scholarships, and health benefits coverage.
- Sec. 224. Allotments to States.
- Sec. 225. Application and plan.
- Sec. 226. Child Care Provider Development and Retention Grant Program.
- Sec. 227. Child Care Provider Scholarship Program.
- Sec. 228. Child care provider health benefits coverage.
- Sec. 229. Annual report.
- Sec. 230. Evaluation of health benefits programs by Secretary.
- Sec. 231. Authorization of appropriations.

Subtitle D—Child Care Facilities Financing

- Sec. 241. Short title.
- Sec. 242. Technical and financial assistance grants.
- Sec. 243. Definitions.
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Subtitle E—Business Child Care Incentive Grant Program

- Sec. 251. Business child care incentive grant program.

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

Subtitle A—Universal Prekindergarten Act

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

Subtitle B—Universal Free School Breakfast Program

- Sec. 311. Universal free school breakfast program.

Subtitle C—Free Lunch Eligibility

- Sec. 321. Free lunch eligibility.

Subtitle D—Child and Adult Care Food Program

- Sec. 331. Reimbursements for afterschool dinners.

Subtitle E—Afterschool Education Enhancement Act

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

TITLE IV—IMPROVING THE WORKPLACE FOR FAMILIES

Subtitle A—Part-Time and Temporary Workers Benefits

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

Subtitle B—United States Business Telework Act

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

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) Currently in $\frac{2}{3}$ of married families with
4 children in the United States, both parents work
5 full-time. Seventy-one percent of mothers with chil-
6 dren under age 18 work full-time, and another 29
7 percent work part-time.

8 (2) The National Study of the Changing Work-
9 force found that 70 percent of employed parents in-
10 dicated that they don't have enough time with their
11 children.

12 (3)(A) A survey conducted by the Boys and
13 Girls Clubs of America found that more than half of
14 the respondents indicated that they had little or no
15 time to spend in physical activities with their chil-
16 dren.

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

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

7 (4) Nearly $\frac{2}{3}$ of employees who need to take
8 family or medical leave do not take such leave be-
9 cause they cannot afford to forgo the pay.

10 (5) Nearly every industrialized nation other
11 than the United States, and most developing na-
12 tions, provides parents with paid leave for infant
13 care.

14 (6) In the United States, more than half of all
15 mothers of children under the age of one now work.
16 Yet parents of infants and toddlers face acute prob-
17 lems finding child care, and child care that is avail-
18 able is often of mediocre quality.

19 (7) The cost of child care averages \$4,000 to
20 \$6,000 per year in the United States, and families
21 with younger children or with more than one child
22 face even greater costs. For example, the average
23 annual cost of child care for a 4-year-old in an
24 urban area center is more than the average annual
25 cost of public college tuition in all but one State.

1 (8) The average annual child care teacher sal-
2 ary is \$15,430, a wage so low that many programs
3 find it extremely challenging to recruit fully qualified
4 teachers and to retain them. High turnover rates
5 make it more difficult to provide quality and con-
6 tinuity of care.

7 (9) Only 12 percent of eligible children receive
8 child care assistance through the Child Care Devel-
9 opment Block Grant, and only about 3 out of 5 eligi-
10 ble preschoolers are able to participate in the Head
11 Start program.

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

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

18 (12) According to the Bureau of the Census,
19 nearly 7,000,000 children in the United States are
20 left alone after school each week without adult su-
21 pervision or structured activities of any kind.

22 (13) Violent juvenile crime peaks between the
23 hours of 3:00 p.m. and 7:00 p.m. and teens are
24 more likely to be victims of serious violent crime in

1 the hour after school lets out than any other time
2 of the day.

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

6 (15) Companies with telework programs have
7 found that telework can boost employee productivity
8 5 percent to 20 percent, thereby saving businesses
9 valuable resources and time.

10 (16) More United States families are working
11 more hours than ever. In 2000, the average Amer-
12 ican worker worked 36 hours more, almost a full
13 week, than in 1990. A recent AFL-CIO poll found
14 that nearly three-quarters of working adults indi-
15 cated that they have little or no control over their
16 work schedules.

17 (17) The AFL-CIO's "Ask a Working Woman"
18 survey for 2002 reported that 63 percent of working
19 women work more than 40 hours a week, 30 percent
20 of working women work 20 to 39 hours a week, and
21 7 percent of working women work less than 20
22 hours a week.

1 **TITLE I—PAID LEAVE FOR NEW**
2 **PARENTS AND FAMILY AND**
3 **MEDICAL LEAVE ENHANCE-**
4 **MENT ACT OF 2009**

5 **Subtitle A—Paid Leave for New**
6 **Parents**

7 **SEC. 101. SHORT TITLE.**

8 This subtitle may be cited as the “Family Leave In-
9 surance Act of 2009”.

10 **SEC. 102. GENERAL DEFINITIONS.**

11 (a) **IN GENERAL.**—The definitions provided by sec-
12 tion 101 of the Family and Medical Leave Act of 1993
13 (29 U.S.C. 2611), other than the definitions of the terms
14 “son or daughter”, shall apply for purposes of this sub-
15 title.

16 (b) **ADDITIONAL DEFINITIONS.**—In this subtitle, the
17 following additional definitions shall apply:

18 (1) **BOARD OF TRUSTEES.**—The term “Board
19 of Trustees” means the Board of Trustees of the In-
20 surance Fund.

21 (2) **COVERED AGENCY.**—The term “covered
22 agency”, when used with respect to a State, means
23 the State agency referred to in paragraph (1) of sec-
24 tion 112(b), or the Commissioner of Social Security
25 if the Commissioner is carrying out the State Family

1 and Medical Insurance Program in the State under
2 paragraph (2) of such section.

3 (3) DOMESTIC PARTNER.—The term “domestic
4 partner” means—

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

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

14 (C) in the case of an unmarried employee
15 who lives in a State where a person cannot
16 marry a person of the same sex under the laws
17 of the State, a single, unmarried adult person
18 of the same sex as the employee who is in a
19 committed, intimate relationship with the em-
20 ployee, is not a domestic partner to any other
21 person, and who is designated to the employer
22 by such employee as that employee’s domestic
23 partner.

1 (4) INSURANCE FUND.—The term “Insurance
2 Fund” means the Family and Medical Leave Insur-
3 ance Fund established under section 141.

4 (5) MANAGING TRUSTEE.—The term “Man-
5 aging Trustee” means the Managing Trustee of the
6 Board of Trustees of the Insurance Fund.

7 (6) SON OR DAUGHTER.—The term “son or
8 daughter” means a biological, adopted, or foster
9 child, a stepchild, a legal ward, a child of a person’s
10 domestic partner, or a child of a person standing in
11 loco parentis, who is—

12 (A) under 18 years of age; or

13 (B) 18 years of age or older and incapable
14 of self-care because of a mental or physical dis-
15 ability.

16 **PART 1—FAMILY AND MEDICAL LEAVE**

17 **INSURANCE PROGRAM**

18 **SEC. 111. PROGRAM DEFINITIONS.**

19 In this part:

20 (1) ELIGIBLE EMPLOYEE.—The term “eligible
21 employee” means any of the following:

22 (A) An employee who—

23 (i) earned wages with a covered em-
24 ployer for a minimum of 6 months prior to

1 filing an application for leave benefits
2 under this part; and

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

7 (B) An employee—

8 (i) of a small employer that has elect-
9 ed to participate in the Program under
10 this part in accordance with such regula-
11 tions as the Secretary shall prescribe; and

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

15 (C) A self-employed individual who has—

16 (i) elected to participate in the Pro-
17 gram under this part in accordance with
18 such regulations as the Secretary shall pre-
19 scribe;

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

24 (iii) paid premiums under section
25 1401(c) of the Internal Revenue Code of

1 1986 with respect to such self-employment
2 income.

3 (2) EMPLOYER-RELATED DEFINITIONS.—

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

6 (i) that is—

7 (I) an employer;

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

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

15 (ii) that is not a voluntary plan em-
16 ployer.

17 (B) EMPLOYER.—The term “employer”
18 shall have the meaning given that term in sec-
19 tion 101(4) of the Family and Medical Leave
20 Act of 1993 (29 U.S.C. 2611(4)), except that
21 such term shall include any person who employs
22 2 or more employees for each working day dur-
23 ing each of 20 or more calendar workweeks in
24 the current or preceding calendar year.

1 (C) SMALL EMPLOYER.—The term “small
2 employer”—

3 (i) means any person engaged in com-
4 merce or in any industry or activity affect-
5 ing commerce who employs not less than 2
6 and not more than 19 employees for each
7 working day during each of 20 or more
8 calendar workweeks in the current or pre-
9 ceding calendar year; and

10 (ii) includes—

11 (I) any person who acts, directly
12 or indirectly, in the interest of an em-
13 ployer described in clause (i) to any of
14 the employees of such employer;

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

18 (III) any public agency, as de-
19 fined in section 3(x) of the Fair Labor
20 Standards Act of 1938 (29 U.S.C.
21 203(x)) that is an employer described
22 in clause (i) but is not an entity of the
23 Federal Government.

24 (D) VOLUNTARY PLAN EMPLOYER.—The
25 term “voluntary plan employer” means an em-

1 ployer for which the Secretary has approved a
2 voluntary plan under section 114 for the period
3 involved.

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

7 (4) VOLUNTARY PAID BENEFIT.—The term
8 “voluntary paid benefit” means a family and medical
9 leave insurance benefit provided under a voluntary
10 plan approved under section 114 for the period in-
11 volved.

12 **SEC. 112. ESTABLISHMENT OF PROGRAM.**

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

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

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

20 (A) the State agrees to establish, or ex-
21 pand a State program in effect at the date of
22 the enactment of this Act to include, a State
23 Family and Medical Insurance Program that
24 provides the benefits described in this part; and

1 (B) the Secretary agrees to instruct the
2 Managing Trustee of the Family and Medical
3 Leave Insurance Fund, established under sec-
4 tion 141, to provide the State funds for such
5 benefits from the Insurance Fund; or

6 (2) at the request of the Governor of a State,
7 enter into an interagency agreement with the Com-
8 missioner of Social Security under which—

9 (A) the Commissioner of Social Security
10 agrees to establish a State Family and Medical
11 Insurance Program in such State to provide the
12 benefits described in this part in such State;
13 and

14 (B) the Secretary agrees to instruct the
15 Managing Trustee of the Insurance Fund to
16 provide the Commissioner of Social Security
17 funds for such benefits from the Insurance
18 Fund.

19 (c) STATE APPLICATION.—To be eligible to receive
20 a contract under subsection (b)(1), a State shall submit
21 an application to the Secretary at such time, in such man-
22 ner, and containing such information as the Secretary may
23 require. At a minimum, the application shall include infor-
24 mation identifying the State agency to carry out the State

1 Family and Medical Insurance Program under subsection
2 (b)(1).

3 **SEC. 113. PROGRAM BENEFITS.**

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

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

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

15 (3) In order to care for a child, parent, spouse,
16 domestic partner, grandchild, grandparent, or sibling
17 of the employee and who has a serious health condi-
18 tion.

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

22 (5) Because of any qualifying exigency (as the
23 Secretary of Labor shall, by regulation, determine)
24 arising out of the fact that the spouse, or a son,
25 daughter, or parent of the employee is on active

1 duty (or has been notified of an impending call or
2 order to active duty) in the Armed Forces of the
3 United States in support of a contingency operation.

4 (6) In order to care for a child, parent, spouse,
5 domestic partner, grandchild, grandparent, sibling,
6 or next of kin of the employee who is a covered serv-
7 icemember as such term is defined in section
8 101(16) of the Family and Medical Leave Act of
9 1993 (29 U.S.C. 2611(16)).

10 (b) WAITING PERIOD.—During each 12-month pe-
11 riod described in subsection (a), each eligible employee
12 shall be subject to a waiting period of 5 workdays of leave
13 described in subsection (a) (but not more than 7 calendar
14 days), during which a leave benefit shall not be paid to
15 the employee. The waiting period shall not reduce the 12
16 workweeks of leave benefits available under subsection (a).

17 (c) BENEFIT AMOUNT.—

18 (1) IN GENERAL.—Subject to paragraph (2), an
19 eligible employee’s leave benefit for any workday on
20 which the employee takes leave as described in sub-
21 section (a) shall be calculated as—

22 (A) in the case of an employee with an an-
23 nual income of not more than \$20,000, an
24 amount equal to 100 percent of that employee’s
25 daily earnings;

1 (B) in the case of an employee with an an-
2 nual income of more than \$20,000 and not
3 more than \$30,000, an amount equal to the
4 greater of—

5 (i) 75 percent of that employee's daily
6 earnings; or

7 (ii) 100 percent of the daily earnings
8 of an employee with an annual income of
9 \$20,000;

10 (C) in the case of an employee with an an-
11 nual income of more than \$30,000 and not
12 more than \$60,000, an amount equal to the
13 greater of—

14 (i) 55 percent of that employee's daily
15 earnings; or

16 (ii) 75 percent of the daily earnings of
17 an employee with an annual income of
18 \$30,000;

19 (D) in the case of an employee with an an-
20 nual income of more than \$60,000 and not
21 more than \$97,000, an amount equal to the
22 greater of—

23 (i) 40 percent of that employee's daily
24 earnings; or

1 (ii) 55 percent of the daily earnings of
2 an employee with an annual income of
3 \$60,000; and

4 (E) in the case of an employee with an an-
5 nual income of more than \$97,000, an amount
6 equal to 40 percent of the daily earnings of an
7 employee with an annual income of \$97,000.

8 (2) INDEXING OF ANNUAL INCOME CAT-
9 EGORIES.—

10 (A) IN GENERAL.—The Secretary shall
11 index the annual income amounts specified in
12 paragraph (1) for each calendar year, using the
13 national average wage index, as determined
14 under section 209(k) of the Social Security Act
15 (42 U.S.C. 409(k)).

16 (B) PUBLICATION.—Not later than the
17 November 1 preceding each calendar year, the
18 Secretary shall publish in the Federal Register
19 the indexed amount determined under subpara-
20 graph (A) for that calendar year.

21 (d) APPLICATION.—

22 (1) IN GENERAL.—To be eligible to receive a
23 family and medical insurance benefit under this part
24 in a State, an eligible employee shall submit an ap-
25 plication to the covered agency for the State at such

1 time, in such manner, and containing the informa-
2 tion specified in paragraph (3) and such additional
3 information as the agency may require.

4 (2) IRREVOCABILITY FOR SELF-EMPLOYED IN-
5 DIVIDUALS.—An election by a self-employed indi-
6 vidual to participate in the Program shall be irrev-
7 ovable.

8 (3) CERTIFICATION REQUIREMENTS.—The cov-
9 ered agency shall require each of the following, as
10 part of the application for benefits under this section
11 in connection with any leave:

12 (A) A certification, submitted in a timely
13 manner, issued by the health care provider of
14 the eligible employee or of the child, spouse,
15 parent, domestic partner, grandchild, grand-
16 parent or sibling of the employee, as appro-
17 priate, and similar to the certification described
18 section 103(b) of the Family and Medical Leave
19 Act of 1993 (29 U.S.C. 2613(b)) in connection
20 with such leave.

21 (B) In any case in which the covered agen-
22 cy has reason to doubt the validity of the cer-
23 tification provided under subparagraph (A), the
24 Secretary may require, at the expense of the
25 covered agency, that the eligible employee ob-

1 tain the opinion of a second health care pro-
2 vider designated or approved by the agency con-
3 cerning any information certified under sub-
4 paragraph (A).

5 (C) In any case in which the second opin-
6 ion described in subparagraph (B) differs from
7 the opinion in the original certification provided
8 under subparagraph (A), the covered agency
9 may require, at the expense of the agency, that
10 the employee obtain the opinion of a third
11 health care provider designated or approved
12 jointly by the agency and the employee con-
13 cerning the information certified under sub-
14 paragraph (A). The opinion of the third health
15 care provider concerning such information shall
16 be considered to be final and shall be binding
17 on the agency and the employee.

18 (e) PAYMENT OF BENEFITS.—

19 (1) PAYMENT FROM INSURANCE FUND.—Pay-
20 ments of benefits required to be made under this
21 section shall be made only from the Insurance Fund
22 established under section 141.

23 (2) CERTIFICATION AND PAYMENT.—On the
24 final decision of a covered agency or on the final
25 judgment of any court of competent jurisdiction pur-

1 suant to paragraph (3) that any person is entitled
2 to any payment under this section—

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

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

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

14 (3) REVIEW.—Any eligible employee dissatisfied
15 with any initial determination under this section
16 shall be entitled to reconsideration of the determina-
17 tion, and a hearing on the determination, by the
18 Secretary to the same extent as is provided in sec-
19 tion 205(b) of the Social Security Act (42 U.S.C. 22
20 405(b)) and to judicial review of the final decision
21 after such hearing as is provided in section 205(g)
22 of the Social Security Act (42 U.S.C. 405(g)).

23 (4) WITHHOLDING OF CERTIFICATION.—In any
24 case in which a review of the covered agency's deci-
25 sion is or may be sought under paragraph (3), the

1 covered agency may withhold certification of pay-
2 ment pending such review.

3 (5) OTHER COMPENSATION.—Except as pro-
4 vided in section 115, no employee shall be eligible to
5 receive paid leave benefits under this part for any
6 period during which—

7 (A) the employee is receiving worker’s
8 compensation or compensation through unem-
9 ployment insurance in connection with the event
10 for which the employee is taking the leave; or

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

14 (f) REGULATIONS.—The Secretary shall issue regula-
15 tions to carry out this section, including the determination
16 of benefits for leave taken intermittently or on a reduced
17 leave schedule, or for leave taken by a part-time, seasonal,
18 or intermittent employee.

19 **SEC. 114. VOLUNTARY EMPLOYER PLAN.**

20 (a) IN GENERAL.—Any employer may submit an ap-
21 plication to the Secretary for approval of a voluntary plan.
22 The Secretary may require the employer to resubmit the
23 plan for approval on an annual basis. During a period for
24 which the Secretary has approved a plan, the applicant

1 shall provide a voluntary paid benefit under the plan rath-
2 er than participating in the Program.

3 (b) APPROVAL.—The Secretary shall approve the vol-
4 untary plan of the applicant if the Secretary finds each
5 of the following with respect to the applicant:

6 (1) The rights afforded to the employees cov-
7 ered under the plan are equal to or greater than the
8 rights afforded through the Program.

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

14 (3) A majority of the employees of the employer
15 employed in the United States or a majority of the
16 employees employed at any one distinct, separate es-
17 tablishment maintained by the employer in the
18 United States have consented to the plan.

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

23 (5) The applicant has consented to the plan and
24 has agreed to make the premium contributions re-

1 required, if any, and transmit the proceeds to the dis-
2 ability insurer, if any.

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

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

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

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

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

20 (C) The applicant shall pay a fee to the Sec-
21 retary in such amount as the Secretary determines
22 to be adequate to provide leave benefits under this
23 part to all eligible employees of the applicant for a
24 period of at least 4 months, plus an amount to pay

1 administrative costs related to processing and paying
2 such benefits.

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

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

10 (c) ORDERS AND WITHDRAWAL OF APPROVAL.—If
11 the Secretary finds that a voluntary plan employer is not
12 paying voluntary paid benefits required under the vol-
13 untary plan to the employees under the plan, the Secretary
14 may order the employer to make the payments. If the Sec-
15 retary finds that a voluntary plan employer is not com-
16 plying with the provisions of the plan, including by not
17 paying voluntary paid benefits required under the plan,
18 the Secretary may revoke the Secretary's approval for the
19 plan, and require the employer to participate in the Pro-
20 gram.

21 **SEC. 115. ADDITIONAL BENEFITS.**

22 (a) ADDITIONAL EMPLOYER BENEFITS.—

23 (1) COVERED EMPLOYERS.—Nothing in this
24 part shall be construed to discourage a covered em-
25 ployer from providing an additional benefit in con-

1 junction with leave described in section 113(a) to an
2 eligible employee, in addition to the leave benefit
3 provided to that employee. The additional employer
4 benefit shall not reduce the amount of the leave ben-
5 efit that an eligible employee receives under this
6 part.

7 (2) VOLUNTARY PLAN EMPLOYERS.—Nothing
8 in this part shall be construed to discourage a vol-
9 untary plan employer from providing an additional
10 benefit in conjunction with leave described in section
11 113(a) to an employee, in addition to the voluntary
12 paid benefit provided to that employee. The addi-
13 tional employer benefit shall not reduce the amount
14 of the voluntary paid benefit that an employee re-
15 ceives under a voluntary plan described in section
16 114.

17 (b) COLLECTIVE BARGAINING.—

18 (1) MORE PROTECTIVE.—Nothing in this part
19 shall be construed to diminish the obligation of a
20 covered employer or voluntary plan employer to com-
21 ply with any collective bargaining agreement or any
22 employment benefit program or plan that provides
23 greater paid leave rights to employees than the
24 rights established under this part (including rights
25 established under a plan described in section 114).

1 (2) LESS PROTECTIVE.—The rights established
2 for employees under this part (including rights es-
3 tablished under a plan described in section 114)
4 shall not be diminished by any collective bargaining
5 agreement or any employment benefit program or
6 plan.

7 **SEC. 116. PROHIBITED ACTS BY EMPLOYER.**

8 (a) INTERFERENCE WITH RIGHTS.—It shall be un-
9 lawful for any covered employer to interfere with, restrain,
10 or deny the exercise of or the attempt to exercise, any
11 right provided under this part.

12 (b) DISCRIMINATION.—It shall be unlawful for any
13 covered employer to discharge or in any other manner dis-
14 criminate against any individual for opposing any practice
15 made unlawful by this part.

16 (c) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
17 IES.—It shall be unlawful for any person to discharge or
18 in any other manner discriminate against any individual
19 because such individual—

20 (1) has filed any charge, or has instituted or
21 caused to be instituted any proceeding, under or re-
22 lated to this part;

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

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

4 **SEC. 117. ENFORCEMENT.**

5 (a) CIVIL ACTION BY EMPLOYEES.—

6 (1) LIABILITY.—Any covered employer who vio-
7 lates section 116 shall be liable to any eligible em-
8 ployee affected—

9 (A) for damages equal to—

10 (i) the amount of—

11 (I) any wages, salary, employ-
12 ment benefits, or other compensation
13 denied or lost to such employee by
14 reason of the violation; or

15 (II) in a case in which wages,
16 salary, employment benefits, or other
17 compensation have not been denied or
18 lost to the employee, any actual mone-
19 tary losses sustained by the employee
20 as a direct result of the violation, such
21 as the cost of providing care, up to a
22 sum equal to 8 weeks of wages or sal-
23 ary for the employee;

1 (ii) the interest on the amount de-
2 scribed in clause (i) calculated at the pre-
3 vailing rate; and

4 (iii) an additional amount as liq-
5 uidated damages equal to the sum of the
6 amount described in clause (i) and the in-
7 terest described in clause (ii), except that
8 if a covered employer who has violated sec-
9 tion 116 proves to the satisfaction of the
10 court that the act or omission which vio-
11 lated section 116 was in good faith and
12 that the employer had reasonable grounds
13 for believing that the act or omission was
14 not a violation of section 116, such court
15 may, in the discretion of the court, reduce
16 the amount of the liability to the amount
17 and interest determined under clauses (i)
18 and (ii), respectively; and

19 (B) for such equitable relief as may be ap-
20 propriate, including employment, reinstatement,
21 and promotion.

22 (2) RIGHT OF ACTION.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), an action to recover the
25 damages or equitable relief prescribed in para-

1 graph (1) may be maintained against any cov-
2 ered employer (including a public agency) in
3 any Federal or State court of competent juris-
4 diction by any 1 or more employees for and on
5 behalf of—

6 (i) the employees; or

7 (ii) the employees and other employ-
8 ees similarly situated.

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

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

19 (ii) on the filing of a complaint by the
20 Secretary in an action under paragraph (1)
21 or (2) of subsection (b) in which a recovery
22 is sought of the damages described in
23 paragraph (1)(A) owing to an eligible em-
24 ployee by an employer liable under para-
25 graph (1),

1 unless the action described in clause (i) or (ii)
2 is dismissed without prejudice on motion of the
3 Secretary.

4 (3) FEES AND COSTS.—The court in an action
5 brought under this subsection shall, in addition to
6 any judgment awarded to the plaintiff, allow a rea-
7 sonable attorneys' fee, reasonable expert witness
8 fees, and other costs of the action to be paid by the
9 defendant.

10 (b) ACTIONS BY THE SECRETARY.—

11 (1) ADMINISTRATIVE ACTION.—The Secretary
12 shall receive, investigate, and attempt to resolve
13 complaints of violations of section 116 in the same
14 manner that the Secretary receives, investigates, and
15 attempts to resolve complaints of violations of sec-
16 tions 6 and 7 of the Fair Labor Standards Act of
17 1938 (29 U.S.C. 206 and 207).

18 (2) CIVIL ACTION.—

19 (A) RIGHT OF ACTION.—The Secretary
20 may bring an action in any court of competent
21 jurisdiction to recover the damages described in
22 subsection (a)(1)(A).

23 (B) SUMS RECOVERED.—Any sums recov-
24 ered by the Secretary pursuant to this para-
25 graph shall be held in a special deposit account

1 and shall be paid, on order of the Secretary, di-
2 rectly to each employee affected. Any such sums
3 not paid to an employee because of inability to
4 do so within a period of 3 years shall be depos-
5 ited into the Treasury of the United States as
6 miscellaneous receipts.

7 (3) ACTION FOR INJUNCTION BY THE SEC-
8 RETARY.—The district courts of the United States
9 shall have jurisdiction, for cause shown, in an action
10 brought by the Secretary—

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

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

19 (4) SOLICITOR OF LABOR.—The Solicitor of
20 Labor may appear for and represent the Secretary
21 on any litigation brought under this subsection.

22 (c) LIMITATION.—

23 (1) Except as provided in paragraph (2), an ac-
24 tion may be brought under subsections (a) or (b) not
25 later than 2 years after the date of the last event

1 constituting the alleged violation for which the ac-
2 tion is brought.

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

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

12 (d) INVESTIGATIVE AUTHORITY.—

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

19 (2) OBLIGATION TO KEEP AND PRESERVE
20 RECORDS.—Any covered employer shall make, keep,
21 and preserve records pertaining to compliance with
22 this part in accordance with section 11(c) of the
23 Fair Labor Standards Act of 1938 (29 U.S.C.
24 211(c)) and in accordance with regulations issued by

1 the Secretary. The Secretary shall have access to the
2 records for purposes of conducting audits.

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

13 (4) SUBPOENA POWER.—For the purposes of
14 any investigation provided for in this section, the
15 Secretary shall have the subpoena authority provided
16 for under section 9 of the Fair Labor Standards Act
17 of 1938 (29 U.S.C. 209).

18 **SEC. 118. PENALTIES.**

19 (a) PENALTIES FOR SUBMISSION OF FALSE CERTIFI-
20 CATIONS.—If the Secretary finds that any individual sub-
21 mits a false certification of the health condition of any
22 person in order to obtain leave benefits under this part
23 with the intent to defraud, the Secretary shall assess a
24 penalty against the individual in an amount up to 100 per-
25 cent of the benefits paid as a result of the false certifi-

1 cation. Penalties collected under this subsection shall be
2 deposited in the Insurance Fund, notwithstanding the pro-
3 visions of title 31, United States Code and used to reim-
4 burse the covered employers involved for the amount of
5 the leave benefits.

6 (b) CRIMINAL PENALTIES FOR FALSE STATEMENTS
7 AND SOLICITATIONS.—Whoever—

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

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

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

23 (4) knowingly assists, abets, solicits, or con-
24 spires with any person to engage in an act that is
25 prohibited under paragraph (1), (2), or (3),

1 shall be guilty of a felony and upon conviction shall be
2 fined under title 18, United States Code, or imprisoned
3 for not more than 5 years, or both.

4 **SEC. 119. EDUCATION PROGRAMS.**

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

8 (b) **NOTICE TO EMPLOYERS.**—The Secretary shall
9 provide to each covered employer a notice informing em-
10 ployees of the rights and leave benefits available under this
11 part. The notice shall be given by every covered employer
12 to each employee hired, and to each employee taking leave
13 as described in section 113(a).

14 **SEC. 120. REGULATIONS.**

15 The Secretary shall issue regulations to carry out this
16 part.

17 **SEC. 121. EFFECTIVE DATE.**

18 This part shall take effect on January 1, 2011, and
19 apply to periods of leave that commence on or after Janu-
20 ary 1, 2012.

21 **PART 2—CIVIL SERVICE FAMILY AND MEDICAL**
22 **LEAVE INSURANCE PROGRAM**

23 **SEC. 131. PROGRAM DEFINITIONS.**

24 In this part:

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

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

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

9 (B) has earned wages with an agency for
10 12 of the last 18 months, prior to filing an ap-
11 plication for leave benefits under this part.

12 **SEC. 132. ESTABLISHMENT OF PROGRAM.**

13 (a) IN GENERAL.—The Director of the Office of Per-
14 sonnel Management shall establish a Civil Service Family
15 and Medical Leave Insurance Program, and shall issue
16 regulations providing for the implementation of the pro-
17 gram. In issuing the regulations, the Director shall require
18 that the Director shall provide, or that the agencies shall
19 provide, family and medical leave insurance benefits de-
20 scribed in section 113 to agency employees. The regula-
21 tions issued under this subsection shall include provisions
22 that are the same as regulations issued by the Secretary
23 to implement the statutory provisions of sections 113,
24 115, 119, and 120, except insofar as the Director may
25 determine, for good cause shown and stated together with

1 the regulations, that a modification of the regulations
2 would be more effective for the implementation of the
3 rights and protections under those sections. The regula-
4 tions shall provide for appropriate remedies and proce-
5 dures for violations of this part.

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

10 **PART 3—FAMILY AND MEDICAL LEAVE**

11 **INSURANCE FUND**

12 **SEC. 141. ESTABLISHMENT.**

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

19 (b) APPROPRIATIONS TO INSURANCE FUND.—

20 (1) AMOUNTS APPROPRIATED.—There is appro-
21 priated to the Insurance Fund for fiscal year 2011
22 and each fiscal year thereafter, out of any moneys
23 in the Treasury not otherwise appropriated, amounts
24 equivalent to 100 percent of—

1 (A) the family and medical leave premiums
2 imposed by sections 3101(c) and 3111(c) of the
3 Internal Revenue Code of 1986 with respect to
4 wages (as defined in section 3121 of such Code)
5 reported to the Secretary of the Treasury or the
6 Secretary's delegate under subtitle F of such
7 Code after December 31, 2009, as determined
8 by the Secretary of the Treasury by applying
9 the applicable rates of premium payment under
10 such sections to such wages, which wages shall
11 be certified by the Commissioner of Social Se-
12 curity;

13 (B) on the basis of the records of wages
14 established and maintained by the Commis-
15 sioner of the Social Security Administration in
16 accordance with such reports;

17 (C) the family and medical leave premiums
18 imposed by section 1401(c) of such Code with
19 respect to self-employment income (as defined
20 in section 1402 of such Code) reported to the
21 Secretary of the Treasury or the Secretary's
22 delegate on tax returns under subtitle F of such
23 Code after December 31, 2009, as determined
24 by the Secretary of the Treasury by applying
25 the applicable rate of premium payment under

1 such section 1401(c) to such self-employment
2 income, which self-employment income shall be
3 certified by the Commissioner of Social Secu-
4 rity; and

5 (D) on the basis of the records of self-em-
6 ployment income established and maintained by
7 the Commissioner of Social Security in accord-
8 ance with such returns.

9 (2) TRANSFERS.—Such appropriated amounts
10 shall be transferred from time to time from the gen-
11 eral fund of the Treasury to the Insurance Fund.
12 Such amounts shall be determined on the basis of
13 estimates by the Secretary of the Treasury of the
14 premiums, specified in paragraph (1), paid to or de-
15 posited into the Treasury, and proper adjustments
16 shall be made in amounts subsequently transferred
17 to the extent prior estimates were in excess of or
18 were less than such premiums.

19 (3) INVESTMENTS.—All amounts transferred to
20 the Insurance Fund under paragraph (2) shall be in-
21 vested by the Managing Trustee referred to in sec-
22 tion 312(c) in the same manner and to the same ex-
23 tent as the other assets of the Insurance Fund.

1 **SEC. 142. BOARD OF TRUSTEES.**

2 (a) ESTABLISHMENT AND MEMBERSHIP.—With re-
3 spect to the Insurance Fund, there is established a body
4 to be known as the Board of Trustees of the Insurance
5 Fund which shall be composed of the Secretary of the
6 Treasury, the Secretary of Labor, the Commissioner of
7 Social Security, and the Secretary of Health and Human
8 Services, all ex officio, and of two members of the public
9 (both of whom may not be from the same political party),
10 who shall be nominated by the President, by and with the
11 advice and consent of the Senate.

12 (b) TERMS AND VACANCIES.—Members of the Board
13 of Trustees shall serve for a period of 4 years. A member
14 of the Board of Trustees nominated and confirmed as a
15 member of the public to fill a vacancy occurring during
16 a term shall be nominated and confirmed only for the re-
17 mainder of such term. An individual nominated and con-
18 firmed as a member of the public may serve in such posi-
19 tion after the expiration of such member's term until the
20 earlier of the date on which the member's successor takes
21 office or the date on which a report of the Board is first
22 issued under paragraph (2) after the expiration of the
23 member's term.

24 (c) MANAGING TRUSTEE AND SECRETARY.—The
25 Secretary of the Treasury shall be the Managing Trustee

1 of the Board of Trustees. The Secretary of Labor shall
2 serve as the Secretary of the Board of Trustees.

3 (d) BASIC DUTIES OF THE BOARD OF TRUSTEES.—

4 The Board of Trustees shall meet not less frequently than
5 once each calendar year. It shall be the duty of the Board
6 of Trustees to—

7 (1) hold the Insurance Fund;

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

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

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

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

20 (4) review the general policies followed in man-
21 aging the Insurance Fund, and recommend changes
22 in such policies, including necessary changes in the
23 provisions of law that govern the way in which the
24 Insurance Fund is to be managed.

1 (e) REQUIREMENTS RELATING TO ANNUAL RE-
2 PORT.—The report provided for in subsection (d)(2) shall
3 include a statement of the assets of, and the disburse-
4 ments made from, the Insurance Fund during the fiscal
5 year preceding the fiscal year in which the report is made,
6 an estimate of the expected income to, and disbursements
7 to be made from, the Insurance Fund during the fiscal
8 year in which the report is made and each of the next
9 two fiscal years, and a statement of the actuarial status
10 of the Insurance Fund. Such report shall also include an
11 actuarial opinion by an appropriate employee of the De-
12 partment of Labor certifying that the techniques and
13 methodologies used for the report are generally accepted
14 within the actuarial profession and that the assumptions
15 and cost estimates used for the report are reasonable.

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

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

22 (a) OBLIGATIONS.—It shall be the duty of the Man-
23 aging Trustee to invest such portion of the Insurance
24 Fund as is not, in the trustee's judgment, required to meet
25 current withdrawals. Such investments may be made only

1 in interest-bearing obligations of the United States or in
2 obligations guaranteed as to both principal and interest
3 by the United States.

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

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

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

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

18 (1) except as provided in paragraph (2), the av-
19 erage market yield (computed by the Managing
20 Trustee on the basis of market quotations as of the
21 end of the calendar month preceding the date of
22 such issue) on all marketable interest-bearing obliga-
23 tions of the United States forming a part of the
24 public debt that are not due or callable until after

1 the expiration of four years from the end of such
2 calendar month; or

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

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

14 (e) DISPOSITION AND REDEMPTION OF OBLIGA-
15 TIONS.—Any obligations acquired by the Insurance Fund
16 (except public debt obligations issued exclusively to the In-
17 surance Fund) may be sold by the Managing Trustee at
18 the market price, and such public debt obligations may
19 be redeemed at par plus accrued interest.

20 (f) CREDITING OF INTEREST AND PROCEEDS.—The
21 interest on, and the proceeds from the sale or redemption
22 of, any obligations held in the Insurance Fund shall be
23 credited to and form a part of the Insurance Fund.

1 **SEC. 144. PAYMENTS FROM FAMILY AND MEDICAL LEAVE**
2 **INSURANCE FUND.**

3 The Managing Trustee shall pay from time to time
4 from the Insurance Fund such amounts as the Secretary
5 of Labor certifies are necessary to make the payments pro-
6 vided for by section 113, and payments with respect to
7 administrative expenses under section 145.

8 **SEC. 145. ADMINISTRATIVE EXPENSES.**

9 (a) **AVAILABILITY OF INSURANCE FUND.**—Under
10 regulations that shall be prescribed by the Secretary of
11 Labor, funds shall be made available from the Insurance
12 Fund in connection with the administration of this subtitle
13 and the administration of related provisions of the Inter-
14 nal Revenue Code of 1986 in the same manner and extent
15 as funds are made available from the trust funds referred
16 to in section 201(g) of the Social Security Act (42 U.S.C.
17 401(g)) in connection with the administration of the rel-
18 evant provisions referred to in such section.

19 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be made available for expenditure such
21 amounts as Congress may determine to be appropriate to
22 pay the costs of the part of the administration of this sub-
23 title (including start-up costs, technical assistance, and
24 costs for small employers electing to participate in the
25 Family and Medical Leave Insurance Program) for which
26 the Secretary of Labor is responsible.

1 (c) GIFTS AND BEQUESTS.—The Managing Trustee
 2 may accept on behalf of the United States money gifts
 3 and bequests made unconditionally to the Insurance Fund
 4 for the benefit of the Insurance Fund or any activity fi-
 5 nanced through the Insurance Fund and such gifts and
 6 bequests shall be deposited into the Insurance Fund.

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

12 **SEC. 146. AMENDMENTS TO THE INTERNAL REVENUE CODE**
 13 **OF 1986.**

14 (a) EMPLOYEE PREMIUMS.—Section 3101 of the In-
 15 ternal Revenue Code of 1986 (relating to tax on employ-
 16 ees) is amended—

17 (1) by redesignating subsection (c) as sub-
 18 section (d); and

19 (2) by inserting after subsection (c) the fol-
 20 lowing new subsection:

21 “(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

22 “(1) IN GENERAL.—In addition to the taxes im-
 23 posed by subsections (a) and (b), there is imposed
 24 on the income of every individual a family and med-
 25 ical leave premium equal to the applicable percent-

1 age of the wages (as defined in section 3121(a)) re-
2 ceived by the individual with respect to employment
3 (as defined in section 3121(b)).

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

6 “(A) 0.1 percent with respect to periods of
7 employment by a small employer (as defined in
8 section 103(b) of the Family Leave Insurance
9 Act of 2009) electing to participate in the Fam-
10 ily and Medical Leave Insurance Program (es-
11 tablished under section 112 of such Act); and

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

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

17 “(A) by an employer during which the Sec-
18 retary of Labor determines the employer has in
19 effect a plan which is equivalent to or better
20 than the Family and Medical Leave Insurance
21 Program (established under section 112 of the
22 Family Leave Insurance Act of 2009); or

23 “(B) by a small employer (as so defined)
24 who has not elected to participate in such Pro-
25 gram.

1 For purposes of the preceding sentence, the Sec-
2 retary of Labor shall prescribe such regulations as
3 may be appropriate or necessary, including regula-
4 tions requiring documentation of employer pro-
5 grams.”.

6 (b) EMPLOYER PREMIUMS.—Section 3111 of the In-
7 ternal Revenue Code of 1986 (relating to tax on employ-
8 ers) is amended—

9 (1) by redesignating subsection (c) as sub-
10 section (d); and

11 (2) by inserting after subsection (c) the fol-
12 lowing new subsection:

13 “(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

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

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

24 “(A) 0.1 percent with respect to small em-
25 ployers (as defined in section 103(b) of the

1 Family Leave Insurance Act of 2009) electing
2 to participate in the Family and Medical Leave
3 Insurance Program (established under section
4 112 of such Act); and

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

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

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

14 (1) by redesignating subsection (c) as sub-
15 section (d); and

16 (2) by inserting after subsection (b) the fol-
17 lowing new subsection:

18 “(c) FAMILY AND MEDICAL LEAVE PREMIUMS.—

19 “(1) IN GENERAL.—In addition to the taxes im-
20 posed by subsections (a) and (b), there is imposed
21 for each taxable year, on the self-employment income
22 of every individual, a family and medical leave pre-
23 mium equal to 0.4 percent of the amount of the self-
24 employment income for such taxable year.

1 “(2) EXCEPTION FOR CERTAIN EMPLOYERS.—
2 Paragraph (1) shall not apply for any period with
3 respect to an employer who has not elected to par-
4 ticipate in the Family and Medical Leave Insurance
5 Program (established under section 112 of the Fam-
6 ily Leave Insurance Act of 2009).”.

7 (d) CONFORMING AMENDMENTS TO SOCIAL SECUR-
8 RITY ACT.—Section 201 of the Social Security Act (42
9 U.S.C. 401) is amended—

10 (1) by striking “sections 3101(b) and 3111(b)”
11 both places it appears in subsection (a)(3) and in-
12 serting “sections 3101(b), 3101(c), 3111(b), and
13 3111(c)”, and

14 (2) by striking “section 1401(b)” both places it
15 appears in subsection (a)(4) and inserting “sections
16 1401(b) and 1401(c)”.

17 (e) EFFECTIVE DATE.—

18 (1) EMPLOYMENT PREMIUMS.—The amend-
19 ments made by subsections (a), (b), and (d)(1) shall
20 apply to wages paid after December 31, 2010.

21 (2) SELF-EMPLOYMENT PREMIUMS.—The
22 amendments made by subsections (c) and (d)(2)
23 shall apply to taxable years beginning after Decem-
24 ber 31, 2010.

1 **Subtitle B—Family and Medical**
2 **Leave Enhancement Act of 2009**

3 **SEC. 151. SHORT TITLE.**

4 This subtitle may be cited as the “Family and Med-
5 ical Leave Enhancement Act of 2009”.

6 **SEC. 152. ELIGIBLE EMPLOYEE.**

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

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

14 (a) LEAVE REQUIREMENT.—Section 102(a) of the
15 Family and Medical Leave Act of 1993 (29 U.S.C.
16 2612(a)) is amended by adding at the end the following
17 new paragraph:

18 “(5) ENTITLEMENT TO ADDITIONAL LEAVE FOR
19 PARENTAL INVOLVEMENT AND FAMILY
20 WELLNESS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B) and section 103(g), an eligible em-
23 ployee shall be entitled to leave under this para-
24 graph to—

1 “(i) participate in or attend an activ-
2 ity that is sponsored by a school or com-
3 munity organization and relates to a pro-
4 gram of the school or organization that is
5 attended by a son or daughter or a grand-
6 child of the employee; or

7 “(ii) meet routine family medical care
8 needs, including for medical and dental ap-
9 pointments of the employee or a son,
10 daughter, spouse, or grandchild of the em-
11 ployee, or to attend to the care needs of el-
12 derly individuals who are related to the eli-
13 gible employee, including visits to nursing
14 homes and group homes.

15 “(B) LIMITATIONS.—

16 “(i) IN GENERAL.—An eligible em-
17 ployee is entitled to—

18 “(I) not to exceed 4 hours of
19 leave under this paragraph during any
20 30-day period; and

21 “(II) not to exceed 24 hours of
22 leave under this paragraph during any
23 12-month period.

24 “(ii) COORDINATION RULE.—Leave
25 under this paragraph shall be in addition

1 to any leave provided under any other
2 paragraph of this subsection.

3 “(C) DEFINITIONS.—As used in this para-
4 graph:

5 “(i) SCHOOL.—The term ‘school’
6 means an elementary school or secondary
7 school (as such terms are defined in sec-
8 tion 9101 of the Elementary and Sec-
9 ondary Education Act of 1965 (20 U.S.C.
10 7801)), a Head Start program assisted
11 under the Head Start Act (42 U.S.C. 9831
12 et seq.), or a child care facility.

13 “(ii) COMMUNITY ORGANIZATION.—
14 The term ‘community organization’ means
15 a private nonprofit organization that is
16 representative of a community or a signifi-
17 cant segment of a community and provides
18 activities for individuals described in sub-
19 paragraph (A) or (B) of section 101(12),
20 such as a scouting or sports organiza-
21 tion.”.

22 (b) SCHEDULE.—Section 102(b)(1) of such Act (29
23 U.S.C. 2612(b)(1)) is amended by inserting after the third
24 sentence the following new sentence: “Leave under sub-

1 section (a)(5) may be taken intermittently or on a reduced
2 leave schedule.”.

3 (c) SUBSTITUTION OF PAID LEAVE.—Section
4 102(d)(2) of such Act (29 U.S.C. 2612(d)(2)) is amended
5 by adding at the end the following new subparagraph:

6 “(C) PARENTAL INVOLVEMENT LEAVE AND
7 FAMILY WELLNESS LEAVE.—An eligible em-
8 ployee may elect, or an employer may require
9 the employee, to substitute any of the accrued
10 paid vacation leave, personal leave, or family
11 leave of the employee for any leave under sub-
12 section (a)(5). In addition, an eligible employee
13 may elect, or an employer may require the em-
14 ployee, to substitute any of the accrued paid
15 medical or sick leave of the employee for leave
16 provided under clause (ii) of subsection
17 (a)(5)(A) for any part of the leave under such
18 clause, except that nothing in this title shall re-
19 quire an employer to provide paid sick leave or
20 paid medical leave in any situation in which
21 such employer would not normally provide any
22 such paid leave. If the employee elects or the
23 employer requires the substitution of accrued
24 paid leave for leave provided under subsection
25 (a)(5)(A), the employer shall not restrict or

1 limit this substitution or impose any additional
2 terms and conditions on such leave that are
3 more stringent on the employee than the terms
4 and conditions set forth in this Act.”.

5 (d) NOTICE.—Section 102(e) of such Act (29 U.S.C.
6 2612(e)) is amended by adding at the end the following
7 new paragraph:

8 “(4) NOTICE RELATING TO PARENTAL IN-
9 VOLVEMENT AND FAMILY WELLNESS LEAVE.—In
10 any case in which an employee requests leave under
11 paragraph (5) of subsection (a), the employee
12 shall—

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

18 “(B) in the case of leave to be taken under
19 subparagraph (A)(ii), make a reasonable effort
20 to schedule the leave so as not to disrupt un-
21 duly the operations of the employer, subject to
22 the approval of the health care provider in-
23 volved (if any).”.

1 (e) CERTIFICATION.—Section 103 of such Act (29
2 U.S.C. 2613) is amended by adding at the end the fol-
3 lowing new subsection:

4 “(g) CERTIFICATION RELATED TO PARENTAL IN-
5 VOLVEMENT AND FAMILY WELLNESS LEAVE.—An em-
6 ployer may require that a request for leave under section
7 102(a)(5) be supported by a certification issued at such
8 time and in such manner as the Secretary may by regula-
9 tion prescribe.”.

10 (f) DEFINITION OF GRANDCHILD.—Section 101 of
11 the Family and Medical Leave Act of 1993 (29 U.S.C.
12 2611) is amended by adding at the end the following new
13 paragraph:

14 “(14) GRANDCHILD.—The term ‘grandchild’
15 means a son or daughter of an employee’s son or
16 daughter.”.

17 **SEC. 154. ENTITLEMENT OF FEDERAL EMPLOYEES TO**
18 **LEAVE FOR PARENTAL INVOLVEMENT AND**
19 **FAMILY WELLNESS.**

20 (a) LEAVE REQUIREMENT.—Section 6382(a) of title
21 5, United States Code, is amended by adding at the end
22 the following new paragraph:

23 “(5)(A) Subject to subparagraph (B)(i) and section
24 6383(f), an employee shall be entitled to leave under this
25 paragraph to—

1 “(i) participate in or attend an activity that is
2 sponsored by a school or community organization
3 and relates to a program of the school or organiza-
4 tion that is attended by a son or daughter or a
5 grandchild of the employee; or

6 “(ii) meet routine family medical care needs, in-
7 cluding for medical and dental appointments of a
8 son, daughter, spouse, or grandchild of the em-
9 ployee, or to attend to the care needs of elderly indi-
10 viduals who are related to the eligible employee, in-
11 cluding visits to nursing homes and group homes.

12 “(B)(i) An employee is entitled to—

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

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

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

20 “(C) For the purpose of this paragraph—

21 “(i) the term ‘school’ means an elementary
22 school or secondary school (as such terms are de-
23 fined in section 9101 of the Elementary and Sec-
24 ondary Education Act of 1965), a Head Start pro-

1 gram assisted under the Head Start Act, and a child
2 care facility licensed under State law; and

3 “(ii) the term ‘community organization’ means
4 a private nonprofit organization that is representa-
5 tive of a community or a significant segment of a
6 community and provides activities for individuals de-
7 scribed in subparagraph (A) or (B) of section
8 6381(6), such as a scouting or sports organization.”.

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

11 (1) by inserting after the second sentence the
12 following new sentence: “Leave under subsection
13 (a)(5) may be taken intermittently or on a reduced
14 leave schedule.”; and

15 (2) in the last sentence, by striking “involved,”
16 and inserting “involved (or, in the case of leave
17 under subsection (a)(5), for purposes of any 30-day
18 or 12-month period),”.

19 (c) SUBSTITUTION OF PAID LEAVE.—Section
20 6382(d) of such title is amended—

21 (1) by inserting “(1)” after the subsection des-
22 ignation; and

23 (2) by adding at the end the following:

24 “(2) An employee may elect to substitute for leave
25 under subsection (a)(5), any of the employee’s accrued or

1 accumulated annual or sick leave under subchapter I. If
2 the employee elects to substitute accumulated annual or
3 sick leave for leave provided under subsection (a)(5), the
4 employing agency shall not restrict or limit this substi-
5 tution or impose any additional terms and conditions on
6 such leave that are more stringent on the employee than
7 the terms and conditions set forth in this subchapter.”.

8 (d) NOTICE.—Section 6382(e) of such title is amend-
9 ed by adding at the end the following new paragraph:

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

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

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

22 (e) CERTIFICATION.—Section 6383(f) of such title is
23 amended by striking “6382(a)(3)” and inserting “para-
24 graph (3) or (5) of section 6382(a)”.

1 (f) DEFINITION OF GRANDCHILD.—Section 6381 of
2 title 5, United States Code, is amended—

3 (1) in paragraph (10), by striking “and” at the
4 end;

5 (2) in paragraph (11), by striking the period at
6 the end and inserting “; and”; and

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

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

11 **Subtitle C—Domestic Violence**
12 **Leave Act**

13 **SEC. 161. SHORT TITLE.**

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

16 **SEC. 162. ENTITLEMENT TO LEAVE FOR DOMESTIC VIO-**
17 **LENCE, SEXUAL ASSAULT, OR STALKING.**

18 (a) AUTHORITY FOR LEAVE.—Section 102(a)(1) (29
19 U.S.C. 2612(a)(1)) is amended by adding at the end the
20 following:

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

1 “(G) Because the employee is addressing
2 domestic violence, sexual assault, or stalking
3 and their effects, the employee is unable to per-
4 form any of the functions of the position of
5 such employee.”.

6 (b) DEFINITIONS.—Section 101 (29 U.S.C. 2611) is
7 amended by adding at the end the following:

8 “(20) DOMESTIC VIOLENCE.—The term ‘domes-
9 tic violence’ has the meaning given such term in sec-
10 tion 40002 of the Violence Against Women Act of
11 1994 (42 U.S.C. 13925), and includes dating vio-
12 lence, as such term is defined in such section.

13 “(21) SEXUAL ASSAULT.—The term ‘sexual as-
14 sault’ has the meaning given that term in section
15 40002 of the Violence Against Women Act of 1994
16 (42 U.S.C. 13925).

17 “(22) STALKING.—The term ‘stalking’ has the
18 meaning given such term in section 40002 of the Vi-
19 olence Against Women Act of 1994 (42 U.S.C.
20 13925).

21 “(23) ADDRESSING DOMESTIC VIOLENCE, SEX-
22 UAL ASSAULT, OR STALKING AND THEIR EFFECTS.—
23 The term ‘addressing domestic violence, sexual as-
24 sault, or stalking and their effects’ means—

1 “(A) seeking medical attention for or re-
2 covering from injuries caused by domestic vio-
3 lence, sexual assault, or stalking;

4 “(B) seeking legal assistance or remedies,
5 including communicating with the police or an
6 attorney, or participating in any legal pro-
7 ceeding related to domestic violence, sexual as-
8 sault, or stalking;

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

11 “(D) obtaining psychological counseling re-
12 lated to experiences of domestic violence, sexual
13 assault, or stalking;

14 “(E) participating in safety planning and
15 other actions to increase safety from future do-
16 mestic violence, sexual assault, or stalking, in-
17 cluding temporary or permanent relocation; and

18 “(F) participating in any other activity ne-
19 cessitated by domestic violence, sexual assault,
20 or stalking which must be undertaken during
21 hours of employment.

22 “(24) FAMILY MEMBER.—The term ‘family
23 member’, used with respect to a person, means an
24 individual who is a spouse, domestic partner, parent,

1 son or daughter (including an adult son or daugh-
2 ter) of that person.”.

3 (c) INTERMITTENT OR REDUCED LEAVE.—Section
4 102(b) (29 U.S.C. 2612(b)) is amended by inserting be-
5 fore the last sentence: “Subject to subsection (e)(4) and
6 103(g), leave under subparagraph (F) or (G) of subsection
7 (a)(1) may be taken by an employee intermittently or on
8 a reduced leave schedule.”

9 (d) PAID LEAVE.—Section 102(d)(2)(B) (29 U.S.C.
10 2612(d)(2)(B)) is amended by inserting at the end the fol-
11 lowing: “An eligible employee may elect to substitute any
12 of the accrued paid vacation leave, personal leave, family
13 leave, or medical or sick leave of the employee for leave
14 provided under subparagraph (F) or (G) of subsection
15 (a)(1) for any part of the 12-week period of such leave
16 under such subsection, except that nothing in this title
17 shall require an employer to provide paid sick leave or paid
18 medical leave in any situation in which such employer
19 would not normally provide any such paid leave.”

20 (e) NOTICE.—Section 102(e) (29 U.S.C. 2612(e)), by
21 adding at the end the following:

22 “(4) NOTICE FOR LEAVE DUE TO DOMESTIC VI-
23 OLENCE, SEXUAL ASSAULT, OR STALKING.—In any
24 case in which the necessity for leave under subpara-
25 graph (F) or (G) of subsection (a)(1) is foreseeable

1 based on a scheduled appointment or planned activ-
2 ity to address domestic violence, sexual assault, or
3 stalking and their effects, the employee shall provide
4 such notice to the employer as is reasonable and
5 practicable.”.

6 (f) CERTIFICATION AND CONFIDENTIALITY.—Section
7 103 (29 U.S.C. 2613) is amended—

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

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

11 “(g) CERTIFICATION RELATED TO DOMESTIC VIO-
12 LENCE, SEXUAL ASSAULT, OR STALKING.—

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

19 “(A) documentation of the domestic vio-
20 lence, sexual assault, or stalking, such as police
21 or court records, or documentation of the do-
22 mestic violence, sexual assault, or stalking from
23 a shelter worker, attorney, clergy, or medical or
24 other professional from whom the employee or
25 family member of the employee has sought as-

1 sistance in addressing domestic violence, sexual
2 assault, or stalking and their effects;

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

10 “(C) at the election of the employee, where
11 documentation described in subparagraph (A)
12 and corroborating evidence described in sub-
13 paragraph (B) is not available, a written state-
14 ment describing the domestic violence, sexual
15 assault, or stalking and their effects.

16 “(2) CONFIDENTIALITY.—All evidence of do-
17 mestic violence, sexual assault, or stalking provided
18 to an employer under this subsection, including an
19 employee’s statement, any corroborating evidence,
20 and the fact that an employee has requested leave
21 for the purpose of addressing domestic violence, sex-
22 ual assault, or stalking and their effects, shall be re-
23 tained in the strictest confidence by the employer,
24 except to the extent consented to by the employee
25 where disclosure is necessary to—

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

3 “(B) assist in documenting domestic vio-
4 lence, sexual assault, or stalking for a court or
5 law enforcement agency.”.

6 (g) TABLE OF CONTENTS.—The table of contents in
7 section 1(b) of the Family and Medical Leave Act of 1993
8 (29 U.S.C. prec. 2601) is amended by striking the item
9 relating to section 103 and inserting the following:

 “103. Certification; confidentiality.”.

10 **SEC. 163. INCLUSION OF SAME-SEX SPOUSES AND DOMES-**
11 **TIC PARTNERS.**

12 (a) DEFINITIONS.—

13 (1) INCLUSION OF SAME-SEX SPOUSES.—Sec-
14 tion 101(13) of the Family and Medical Leave Act
15 of 1993 (29 U.S.C. 2611(13)) is amended, by insert-
16 ing “, and, notwithstanding section 7 of title I,
17 United States Code, includes a spouse of the same
18 sex as the employee as determined under applicable
19 State law” before the period.

20 (2) INCLUSION CHILDREN OF A DOMESTIC
21 PARTNER.—Section 101(12) of such Act (29 U.S.C.
22 2611(12)) is amended by inserting “a child of an in-
23 dividual’s domestic partner,” after “a legal ward,”.

1 (3) INCLUSION DOMESTIC PARTNERS.—Section
2 101 of such Act (as amended by section 162) is fur-
3 ther amended by adding at the end the following:

4 “(25) DOMESTIC PARTNER.—The term ‘domes-
5 tic partner’ means—

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

11 “(B) in the case of an unmarried employee
12 who resides in a State where a person cannot
13 marry a person of the same sex under the laws
14 of the State, a single, unmarried adult person
15 of the same sex as the employee who is in a
16 committed, intimate relationship with the em-
17 ployee, is not a domestic partner to any other
18 person, and who is designated to the employer
19 by such employee as that employee’s domestic
20 partner.”.

21 (b) LEAVE REQUIREMENT.—Section 102 of the Fam-
22 ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is
23 amended—

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

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

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

8 (4) in subsection (e)(2)(A), by inserting “do-
9 mestic partner,” after “spouse,”;

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

12 (6) in subsection (f)—

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

15 (B) in paragraph (1), by striking “a hus-
16 band and wife” and inserting “both spouses or
17 both domestic partners”;

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

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

1 (c) CERTIFICATION.—Section 103 of the Family and
2 Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-
3 ed—

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

6 (2) in subsection (b)(4)(A), by inserting “do-
7 mestic partner,” after “spouse,” both places it ap-
8 pears; and

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

11 (d) EMPLOYMENT AND BENEFITS PROTECTION.—
12 Section 104(c)(3) of the Family and Medical Leave Act
13 of 1993 (29 U.S.C. 2614(c)(3)) is amended—

14 (1) in subparagraph (A)(i), by inserting “do-
15 mestic partner,” after “spouse,”; and

16 (2) in subparagraph (C)(ii), by inserting “do-
17 mestic partner,” after “spouse,”.

18 **SEC. 164. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOY-**
19 **EES FOR DOMESTIC VIOLENCE, SEXUAL AS-**
20 **SAULT, OR STALKING.**

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

24 “(E) In order to care for the family member of
25 the employee, if such family member is addressing

1 domestic violence, sexual assault, or stalking and
2 their effects.

3 “(F) Because the employee is addressing do-
4 mestic violence, sexual assault, or stalking and their
5 effects, the employee is unable to perform any of the
6 functions of the position of such employee.”.

7 (b) DEFINITIONS.—Section 6381 of title 5, United
8 States Code is amended—

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

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

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

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

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

23 “(A) seeking medical attention for or re-
24 covering from injuries caused by domestic vio-
25 lence, sexual assault, or stalking;

1 “(B) seeking legal assistance or remedies,
2 including communicating with the police or an
3 attorney, or participating in any legal pro-
4 ceeding related to domestic violence, sexual as-
5 sault, or stalking;

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

8 “(D) obtaining psychological counseling re-
9 lated to experiences of domestic violence, sexual
10 assault, or stalking;

11 “(E) participating in safety planning and
12 other actions to increase safety from future do-
13 mestic violence, sexual assault, or stalking, in-
14 cluding temporary or permanent relocation; and

15 “(F) participating in any other activity ne-
16 cessitated by domestic violence, sexual assault,
17 or stalking which must be undertaken during
18 hours of employment;

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

1 (c) INTERMITTENT OR REDUCED LEAVE.—Section
2 6382(b) of title 5, United States Code, is amended by add-
3 ing at the end the following:

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

12 (d) OTHER LEAVE.—Section 6382(d) of title 5,
13 United States Code, is amended by striking “(C), or (D)”
14 and inserting “(C), (D), (E), or (F)”.

15 (e) NOTICE.—Section 6282(e) of title 5, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 “(3) In any case in which the necessity for
19 leave under subparagraph (F) or (G) of subsection
20 (a)(1) is foreseeable based on a scheduled appoint-
21 ment or planned activity to address domestic vio-
22 lence, sexual assault, or stalking and their effects,
23 the employee shall provide such notice to the em-
24 ploying agency as is reasonable and practicable.”.

1 (f) CERTIFICATION.—Section 6383 of title 5, United
2 States Code, is amended by adding at the end the fol-
3 lowing:

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

9 “(1) documentation of the domestic violence,
10 sexual assault, or stalking, such as police or court
11 records, or documentation of the domestic violence,
12 sexual assault, or stalking from a shelter worker, at-
13 torney, clergy, or medical or other professional from
14 whom the employee or family member of the em-
15 ployee has sought assistance in addressing domestic
16 violence, sexual assault, or stalking and their effects;

17 “(2) other corroborating evidence, such as a
18 statement from any other individual with knowledge
19 of the circumstances which provide the basis for the
20 claim, or physical evidence of domestic violence, sex-
21 ual assault, or stalking, such as photographs or torn
22 or bloody clothes; or

23 “(3) at the election of the employee, where doc-
24 umentation described in paragraph (1) and corrobo-
25 rating evidence described in paragraph (2) is not

1 available, a written statement describing the domes-
2 tic violence, sexual assault, or stalking and their ef-
3 fects.”.

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

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

9 (2) by adding at the end the following:

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

19 “(1) protect the safety of the employee or fam-
20 ily member of the employee; or

21 “(2) assist in documenting domestic violence,
22 sexual assault, or stalking for a court or law enforce-
23 ment agency.”.

24 (h) TABLE OF SECTIONS.—The table of sections for
25 chapter 63 of title 5, United States Code, is amended by

1 striking the item relating to section 6383 and inserting
2 the following:

“6383. Certification; confidentiality.”.

3 **SEC. 165. INCLUSION OF SAME-SEX SPOUSES AND DOMES-**
4 **TIC PARTNERS FOR LEAVE FOR FEDERAL EM-**
5 **PLOYEES.**

6 (a) DEFINITIONS.—Section 6381 of title 5, United
7 States Code, as amended by section 164, is further amend-
8 ed—

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

12 (2) by adding at the end the following:

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

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

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

24 “(B) in the case of an unmarried employee
25 who resides in a State where a person cannot

1 marry a person of the same sex under the laws
2 of the State, a single, unmarried adult person
3 of the same sex as the employee who is in a
4 committed, intimate relationship with the em-
5 ployee, is not a domestic partner to any other
6 person, and who is designated to the employing
7 agency by such employee as that employee’s do-
8 mestic partner.”.

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

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

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

16 (3) in subsection (e)(2)(A), by inserting “do-
17 mestic partner,” after “spouse,”.

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

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

22 (2) in subsection (b)(4)(A), by inserting “do-
23 mestic partner,” after “spouse,” both places it ap-
24 pears.

1 **Subtitle D—Healthy Families Act**

2 **SEC. 171. SHORT TITLE.**

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

5 **SEC. 172. PURPOSES.**

6 The purposes of this subtitle are—

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

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

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

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

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

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

12 (B) to promote the goal of equal employ-
13 ment opportunity for women and men.

14 **SEC. 173. DEFINITIONS.**

15 In this subtitle:

16 (1) CHILD.—The term “child” means a biologi-
17 cal, foster, or adopted child, a stepchild, a legal
18 ward, or a child of a person standing in loco
19 parentis, who is—

20 (A) under 18 years of age; or

21 (B) 18 years of age or older and incapable
22 of self-care because of a mental or physical dis-
23 ability.

24 (2) DOMESTIC VIOLENCE.—The term “domestic
25 violence” has the meaning given the term in section

1 40002(a) of the Violence Against Women Act of
2 1994 (42 U.S.C. 13925(a)), except that the ref-
3 erence in such section to the term “jurisdiction re-
4 ceiving grant monies” shall be deemed to mean the
5 jurisdiction in which the victim lives or the jurisdic-
6 tion in which the employer involved is located.

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

9 (A)(i) an employee, as defined in section
10 3(e) of the Fair Labor Standards Act of 1938
11 (29 U.S.C. 203(e)), who is not covered under
12 subparagraph (E), including such an employee
13 of the Library of Congress, except that a ref-
14 erence in such section to an employer shall be
15 considered to be a reference to an employer de-
16 scribed in clauses (i)(I) and (ii) of paragraph
17 (4)(A); or

18 (ii) an employee of the Government Ac-
19 countability Office;

20 (B) a State employee described in section
21 304(a) of the Government Employee Rights Act of
22 1991 (42 U.S.C. 2000e–16c(a));

23 (C) a covered employee, as defined in section
24 101 of the Congressional Accountability Act of 1995

1 (2 U.S.C. 1301), other than an applicant for em-
2 ployment;

3 (D) a covered employee, as defined in section
4 411(c) of title 3, United States Code; or

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

8 (4) EMPLOYER.—

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

11 (i)(I) a covered employer, as defined
12 in subparagraph (B), who is not covered
13 under subclause (V);

14 (II) an entity employing a State em-
15 ployee described in section 304(a) of the
16 Government Employee Rights Act of 1991;

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

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

23 (V) an employing agency covered
24 under subchapter V of chapter 63 of title
25 5, United States Code; and

1 (ii) is engaged in commerce (including
2 government), or an industry or activity af-
3 fecting commerce (including government),
4 as defined in subparagraph (B)(iii).

5 (B) COVERED EMPLOYER.—

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

8 (I) means any person engaged in
9 commerce or in any industry or activ-
10 ity affecting commerce who employs
11 15 or more employees for each work-
12 ing day during each of 20 or more
13 calendar workweeks in the current or
14 preceding calendar year;

15 (II) includes—

16 (aa) any person who acts,
17 directly or indirectly, in the inter-
18 est of an employer to any of the
19 employees of such employer; and

20 (bb) any successor in inter-
21 est of an employer;

22 (III) includes any “public agen-
23 cy”, as defined in section 3(x) of the
24 Fair Labor Standards Act of 1938
25 (29 U.S.C. 203(x)); and

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

4 (ii) PUBLIC AGENCY.—For purposes
5 of clause (i)(III), a public agency shall be
6 considered to be a person engaged in com-
7 merce or in an industry or activity affect-
8 ing commerce.

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

11 (I) COMMERCE.—The terms
12 “commerce” and “industry or activity
13 affecting commerce” mean any activ-
14 ity, business, or industry in commerce
15 or in which a labor dispute would
16 hinder or obstruct commerce or the
17 free flow of commerce, and include
18 “commerce” and any “industry affect-
19 ing commerce”, as defined in para-
20 graphs (1) and (3) of section 501 of
21 the Labor Management Relations Act,
22 1947 (29 U.S.C. 142 (1) and (3)).

23 (II) EMPLOYEE.—The term “em-
24 ployee” has the same meaning given
25 such term in section 3(e) of the Fair

1 Labor Standards Act of 1938 (29
2 U.S.C. 203(e)).

3 (III) PERSON.—The term “per-
4 son” has the same meaning given
5 such term in section 3(a) of the Fair
6 Labor Standards Act of 1938 (29
7 U.S.C. 203(a)).

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

11 (5) EMPLOYMENT BENEFITS.—The term “em-
12 ployment benefits” means all benefits provided or
13 made available to employees by an employer, includ-
14 ing group life insurance, health insurance, disability
15 insurance, sick leave, annual leave, educational bene-
16 fits, and pensions, regardless of whether such bene-
17 fits are provided by a practice or written policy of
18 an employer or through an “employee benefit plan”,
19 as defined in section 3(3) of the Employee Retire-
20 ment Income Security Act of 1974 (29 U.S.C.
21 1002(3)).

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

24 (A)(i) is a doctor of medicine or osteopathy
25 who is authorized to practice medicine or sur-

1 gery (as appropriate) by the State in which the
2 doctor practices; or

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

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

9 (7) PAID SICK TIME.—The term “paid sick
10 time” means an increment of compensated leave that
11 can be earned by an employee for use during an ab-
12 sence from employment for any of the reasons de-
13 scribed in paragraphs (1) through (4) of section
14 5(b).

15 (8) PARENT.—The term “parent” means a bio-
16 logical, foster, or adoptive parent of an employee, a
17 stepparent of an employee, or a legal guardian or
18 other person who stood in loco parentis to an em-
19 ployee when the employee was a child.

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

22 (10) SEXUAL ASSAULT.—The term “sexual as-
23 sault” has the meaning given the term in section
24 40002(a) of the Violence Against Women Act of
25 1994 (42 U.S.C. 13925(a)).

1 (11) SPOUSE.—The term “spouse”, with re-
2 spect to an employee, has the meaning given such
3 term by the marriage laws of the State in which the
4 employee resides.

5 (12) STALKING.—The term “stalking” has the
6 meaning given the term in section 40002(a) of the
7 Violence Against Women Act of 1994 (42 U.S.C.
8 13925(a)).

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

20 **SEC. 174. PROVISION OF PAID SICK TIME.**

21 (a) ACCRUAL OF PAID SICK TIME.—

22 (1) IN GENERAL.—An employer shall permit
23 each employee employed by the employer to earn not
24 less than 1 hour of paid sick time for every 30 hours
25 worked, to be used as described in subsection (b).

1 An employer shall not be required to permit an em-
2 ployee to earn, under this section, more than 56
3 hours of paid sick time in a calendar year, unless
4 the employer chooses to set a higher limit.

5 (2) EXEMPT EMPLOYEES.—

6 (A) IN GENERAL.—Except as provided in
7 paragraph (3), for purposes of this section, an
8 employee who is exempt from overtime require-
9 ments under section 13(a)(1) of the Fair Labor
10 Standards Act of 1938 (29 U.S.C. 213(a)(1))
11 shall be assumed to work 40 hours in each
12 workweek.

13 (B) SHORTER NORMAL WORKWEEK.—If
14 the normal workweek of such an employee is
15 less than 40 hours, the employee shall earn
16 paid sick time based upon that normal work
17 week.

18 (3) DATES OF ACCRUAL AND USE.—Employees
19 shall begin to earn paid sick time under this section
20 at the commencement of their employment. An em-
21 ployee shall be entitled to use the earned paid sick
22 time beginning on the 60th calendar day following
23 commencement of the employee's employment. After
24 that 60th calendar day, the employee may use the
25 paid sick time as the time is earned. An employer

1 may, at the discretion of the employer, loan paid
2 sick time to an employee in advance of the earning
3 of such time under this section by such employee.

4 (4) CARRYOVER.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), paid sick time earned under
7 this section shall carry over from 1 calendar
8 year to the next.

9 (B) CONSTRUCTION.—This subtitle shall
10 not be construed to require an employer to per-
11 mit an employee to accrue more than 56 hours
12 of earned paid sick time at a given time.

13 (5) EMPLOYERS WITH EXISTING POLICIES.—

14 Any employer with a paid leave policy who makes
15 available an amount of paid leave that is sufficient
16 to meet the requirements of this section and that
17 may be used for the same purposes and under the
18 same conditions as the purposes and conditions out-
19 lined in subsection (b) shall not be required to per-
20 mit an employee to earn additional paid sick time
21 under this section.

22 (6) CONSTRUCTION.—Nothing in this section

23 shall be construed as requiring financial or other re-
24 imbursement to an employee from an employer upon
25 the employee's termination, resignation, retirement,

1 or other separation from employment for earned
2 paid sick time that has not been used.

3 (7) REINSTATEMENT.—If an employee is sepa-
4 rated from employment with an employer and is re-
5 hired, within 12 months after that separation, by the
6 same employer, the employer shall reinstate the em-
7 ployee’s previously earned paid sick time. The em-
8 ployee shall be entitled to use the earned paid sick
9 time and earn additional paid sick time at the re-
10 commencement of employment with the employer.

11 (8) PROHIBITION.—An employer may not re-
12 quire, as a condition of providing paid sick time
13 under this subtitle, that the employee involved
14 search for or find a replacement worker to cover the
15 hours during which the employee is using paid sick
16 time.

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

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

22 (2) An absence resulting from obtaining profes-
23 sional medical diagnosis or care, or preventive med-
24 ical care, for the employee.

1 (3) An absence for the purpose of caring for a
2 child, a parent, a spouse, or any other individual re-
3 lated by blood or affinity whose close association
4 with the employee is the equivalent of a family rela-
5 tionship, who—

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

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

11 (4) An absence resulting from domestic vio-
12 lence, sexual assault, or stalking, if the time is to—

13 (A) seek medical attention for the em-
14 ployee or the employee's child, parent, or
15 spouse, or an individual related to the employee
16 as described in paragraph (3), to recover from
17 physical or psychological injury or disability
18 caused by domestic violence, sexual assault, or
19 stalking;

20 (B) obtain or assist a related person de-
21 scribed in paragraph (3) in obtaining services
22 from a victim services organization;

23 (C) obtain or assist a related person de-
24 scribed in paragraph (3) in obtaining psycho-
25 logical or other counseling;

1 (D) seek relocation; or

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

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

10 (d) PROCEDURES.—

11 (1) IN GENERAL.—Paid sick time shall be pro-
12 vided upon the oral or written request of an em-
13 ployee. Such request shall—

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

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

20 (C) otherwise, be provided as soon as prac-
21 ticable after the employee is aware of the need
22 for such period.

23 (2) CERTIFICATION IN GENERAL.—

24 (A) PROVISION.—

1 (i) IN GENERAL.—Subject to subpara-
2 graph (C), an employer may require that a
3 request for paid sick time under this sec-
4 tion for a purpose described in paragraph
5 (1), (2), or (3) of subsection (b) be sup-
6 ported by a certification issued by the
7 health care provider of the eligible em-
8 ployee or of an individual described in sub-
9 section (b)(3), as appropriate, if the period
10 of such time covers more than 3 consecu-
11 tive workdays.

12 (ii) TIMELINESS.—The employee shall
13 provide a copy of such certification to the
14 employer in a timely manner, not later
15 than 30 days after the first day of the pe-
16 riod of time. The employer shall not delay
17 the commencement of the period of time on
18 the basis that the employer has not yet re-
19 ceived the certification.

20 (B) SUFFICIENT CERTIFICATION.—

21 (i) IN GENERAL.—A certification pro-
22 vided under subparagraph (A) shall be suf-
23 ficient if it states—

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

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

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

8 (IV)(aa) for purposes of paid sick
9 time under subsection (b)(1), a state-
10 ment that absence from work is medi-
11 cally necessary;

12 (bb) for purposes of such time
13 under subsection (b)(2), the dates on
14 which testing for a medical diagnosis
15 or care is expected to be given and the
16 duration of such testing or care; and

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

1 (ii) LIMITATION.—In issuing a certifi-
2 cation under subparagraph (A), a health
3 care provider shall make reasonable efforts
4 to limit the medical facts described in
5 clause (i)(III) that are disclosed in the cer-
6 tification to the minimum necessary to es-
7 tablish a need for the employee to utilize
8 paid sick time.

9 (C) REGULATIONS.—Regulations pre-
10 scribed under section 182 shall specify the man-
11 ner in which an employee who does not have
12 health insurance shall provide a certification for
13 purposes of this paragraph.

14 (D) CONFIDENTIALITY AND NONDISCLO-
15 SURE.—

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

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

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

10 (II) be treated as a confidential
11 medical record; and

12 (III) not be disclosed except to
13 the affected employee or with the per-
14 mission of the affected employee.

15 (3) CERTIFICATION IN THE CASE OF DOMESTIC
16 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

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

22 (i) A police report indicating that the
23 employee, or a member of the employee’s
24 family described in subsection (b)(4), was

1 a victim of domestic violence, sexual as-
2 sault, or stalking.

3 (ii) A court order protecting or sepa-
4 rating the employee or a member of the
5 employee's family described in subsection
6 (b)(4) from the perpetrator of an act of
7 domestic violence, sexual assault, or stalk-
8 ing, or other evidence from the court or
9 prosecuting attorney that the employee or
10 a member of the employee's family de-
11 scribed in subsection (b)(4) has appeared
12 in court or is scheduled to appear in court
13 in a proceeding related to domestic vio-
14 lence, sexual assault, or stalking.

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

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

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

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

15 (iii) with respect to confidentiality
16 under subparagraph (D) of such para-
17 graph, any information provided to the em-
18 ployer under this paragraph shall be con-
19 fidential, except to the extent that any dis-
20 closure of such information is—

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

23 (II) otherwise required by applic-
24 cable Federal or State law.

1 **SEC. 175. POSTING REQUIREMENT.**

2 (a) IN GENERAL.—Each employer shall post and
3 keep posted a notice, to be prepared or approved in ac-
4 cordance with procedures specified in regulations pre-
5 scribed under section 182, setting forth excerpts from, or
6 summaries of, the pertinent provisions of this subtitle in-
7 cluding—

8 (1) information describing paid sick time avail-
9 able to employees under this subtitle;

10 (2) information pertaining to the filing of an
11 action under this subtitle;

12 (3) the details of the notice requirement for a
13 foreseeable period of time under section
14 174(d)(1)(B); and

15 (4) information that describes—

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

18 (B) how the employee can contact the Sec-
19 retary (or other appropriate authority as de-
20 scribed in section 177) if any of the rights are
21 violated.

22 (b) LOCATION.—The notice described under sub-
23 section (a) shall be posted—

24 (1) in conspicuous places on the premises of the
25 employer, where notices to employees (including ap-
26 plicants) are customarily posted; or

1 (2) in employee handbooks.

2 (c) VIOLATION; PENALTY.—Any employer who will-
3 fully violates the posting requirements of this section shall
4 be subject to a civil fine in an amount not to exceed \$100
5 for each separate offense.

6 **SEC. 176. PROHIBITED ACTS.**

7 (a) INTERFERENCE WITH RIGHTS.—

8 (1) EXERCISE OF RIGHTS.—It shall be unlawful
9 for any employer to interfere with, restrain, or deny
10 the exercise of, or the attempt to exercise, any right
11 provided under this subtitle, including—

12 (A) discharging or discriminating against
13 (including retaliating against) any individual,
14 including a job applicant, for exercising, or at-
15 tempting to exercise, any right provided under
16 this subtitle;

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

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

24 (2) DISCRIMINATION.—It shall be unlawful for
25 any employer to discharge or in any other manner

1 discriminate against (including retaliating against)
2 any individual, including a job applicant, for oppos-
3 ing any practice made unlawful by this subtitle.

4 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-
5 IES.—It shall be unlawful for any person to discharge or
6 in any other manner discriminate against (including retali-
7 ating against) any individual, including a job applicant,
8 because such individual—

9 (1) has filed an action, or has instituted or
10 caused to be instituted any proceeding, under or re-
11 lated to this subtitle;

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

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

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

23 **SEC. 177. ENFORCEMENT AUTHORITY.**

24 (a) IN GENERAL.—

25 (1) DEFINITIONS.—In this subsection:

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

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

7 (2) INVESTIGATIVE AUTHORITY.—

8 (A) IN GENERAL.—To ensure compliance
9 with the provisions of this subtitle, or any regu-
10 lation or order issued under this subtitle, the
11 Secretary shall have, subject to subparagraph
12 (C), the investigative authority provided under
13 section 11(a) of the Fair Labor Standards Act
14 of 1938 (29 U.S.C. 211(a)), with respect to em-
15 ployers, employees, and other individuals af-
16 fected.

17 (B) OBLIGATION TO KEEP AND PRESERVE
18 RECORDS.—An employer shall make, keep, and
19 preserve records pertaining to compliance with
20 this subtitle in accordance with section 11(e) of
21 the Fair Labor Standards Act of 1938 (29
22 U.S.C. 211(e)) and in accordance with regula-
23 tions prescribed by the Secretary.

24 (C) REQUIRED SUBMISSIONS GENERALLY
25 LIMITED TO AN ANNUAL BASIS.—The Secretary

1 shall not require, under the authority of this
2 paragraph, an employer to submit to the Sec-
3 retary any books or records more than once
4 during any 12-month period, unless the Sec-
5 retary has reasonable cause to believe there
6 may exist a violation of this subtitle or any reg-
7 ulation or order issued pursuant to this subtitle,
8 or is investigating a charge pursuant to para-
9 graph (4).

10 (D) SUBPOENA AUTHORITY.—For the pur-
11 poses of any investigation provided for in this
12 paragraph, the Secretary shall have the sub-
13 poena authority provided for under section 9 of
14 the Fair Labor Standards Act of 1938 (29
15 U.S.C. 209).

16 (3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
17 UALS.—

18 (A) RIGHT OF ACTION.—An action to re-
19 cover the damages or equitable relief prescribed
20 in subparagraph (B) may be maintained
21 against any employer in any Federal or State
22 court of competent jurisdiction by one or more
23 employees or individuals or their representative
24 for and on behalf of—

25 (i) the employees or individuals; or

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

3 (B) LIABILITY.—Any employer who vio-
4 lates section 176 (including a violation relating
5 to rights provided under section 174) shall be
6 liable to any employee or individual affected—

7 (i) for damages equal to—

8 (I) the amount of—

9 (aa) any wages, salary, em-
10 ployment benefits, or other com-
11 pensation denied or lost by rea-
12 son of the violation; or

13 (bb) in a case in which
14 wages, salary, employment bene-
15 fits, or other compensation have
16 not been denied or lost, any ac-
17 tual monetary losses sustained as
18 a direct result of the violation up
19 to a sum equal to 56 hours of
20 wages or salary for the employee
21 or individual;

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

1 (III) an additional amount as liq-
2 uidated damages; and

3 (ii) for such equitable relief as may be
4 appropriate, including employment, rein-
5 statement, and promotion.

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

12 (4) ACTION BY THE SECRETARY.—

13 (A) ADMINISTRATIVE ACTION.—The Sec-
14 retary shall receive, investigate, and attempt to
15 resolve complaints of violations of section 176
16 (including a violation relating to rights provided
17 under section 174) in the same manner that the
18 Secretary receives, investigates, and attempts to
19 resolve complaints of violations of sections 6
20 and 7 of the Fair Labor Standards Act of 1938
21 (29 U.S.C. 206 and 207).

22 (B) CIVIL ACTION.—The Secretary may
23 bring an action in any court of competent juris-
24 diction to recover the damages described in
25 paragraph (3)(B)(i).

1 (C) SUMS RECOVERED.—Any sums recov-
2 ered by the Secretary pursuant to subparagraph
3 (B) shall be held in a special deposit account
4 and shall be paid, on order of the Secretary, di-
5 rectly to each employee or individual affected.
6 Any such sums not paid to an employee or indi-
7 vidual affected because of inability to do so
8 within a period of 3 years shall be deposited
9 into the Treasury of the United States as mis-
10 cellaneous receipts.

11 (5) LIMITATION.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (B), an action may be brought
14 under paragraph (3), (4), or (6) not later than
15 2 years after the date of the last event consti-
16 tuting the alleged violation for which the action
17 is brought.

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

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

6 (6) ACTION FOR INJUNCTION BY SECRETARY.—
7 The district courts of the United States shall have
8 jurisdiction, for cause shown, in an action brought
9 by the Secretary—

10 (A) to restrain violations of section 176
11 (including a violation relating to rights provided
12 under section 174), including the restraint of
13 any withholding of payment of wages, salary,
14 employment benefits, or other compensation,
15 plus interest, found by the court to be due to
16 employees or individuals eligible under this sub-
17 title; or

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

21 (7) SOLICITOR OF LABOR.—The Solicitor of
22 Labor may appear for and represent the Secretary
23 on any litigation brought under paragraph (4) or
24 (6).

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

9 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
10 COUNTABILITY ACT OF 1995.—The powers, remedies, and
11 procedures provided in the Congressional Accountability
12 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
13 fined in section 101 of that Act (2 U.S.C. 1301)), or any
14 person, alleging a violation of section 202(a)(1) of that
15 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
16 and procedures this subtitle provides to that Board, or any
17 person, alleging an unlawful employment practice in viola-
18 tion of this subtitle against an employee described in sec-
19 tion 173(3)(C).

20 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
21 3, UNITED STATES CODE.—The powers, remedies, and
22 procedures provided in chapter 5 of title 3, United States
23 Code, to the President, the Merit Systems Protection
24 Board, or any person, alleging a violation of section
25 412(a)(1) of that title, shall be the powers, remedies, and

1 procedures this subtitle provides to the President, that
2 Board, or any person, respectively, alleging an unlawful
3 employment practice in violation of this subtitle against
4 an employee described in section 173(3)(D).

5 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
6 5, UNITED STATES CODE.—The powers, remedies, and
7 procedures provided in title 5, United States Code, to an
8 employing agency, provided in chapter 12 of that title to
9 the Merit Systems Protection Board, or provided in that
10 title to any person, alleging a violation of chapter 63 of
11 that title, shall be the powers, remedies, and procedures
12 this subtitle provides to that agency, that Board, or any
13 person, respectively, alleging an unlawful employment
14 practice in violation of this subtitle against an employee
15 described in section 173(3)(E).

16 (e) REMEDIES FOR STATE EMPLOYEES.—

17 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
18 State's receipt or use of Federal financial assistance
19 for any program or activity of a State shall con-
20 stitute a waiver of sovereign immunity, under the
21 11th amendment to the Constitution or otherwise, to
22 a suit brought by an employee of that program or
23 activity under this subtitle for equitable, legal, or
24 other relief authorized under this subtitle.

1 (2) OFFICIAL CAPACITY.—An official of a State
2 may be sued in the official capacity of the official by
3 any employee who has complied with the procedures
4 under subsection (a)(3), for injunctive relief that is
5 authorized under this subtitle. In such a suit the
6 court may award to the prevailing party those costs
7 authorized by section 722 of the Revised Statutes
8 (42 U.S.C. 1988).

9 (3) APPLICABILITY.—With respect to a par-
10 ticular program or activity, paragraph (1) applies to
11 conduct occurring on or after the day, after the date
12 of enactment of this subtitle, on which a State first
13 receives or uses Federal financial assistance for that
14 program or activity.

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

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

21 (a) COMPILATION OF INFORMATION.—Effective 90
22 days after the date of enactment of this Act, the Commis-
23 sioner of Labor Statistics shall annually compile informa-
24 tion on the following:

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

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

5 (3) The number of employees who used paid
6 sick time for absences necessary due to domestic vio-
7 lence, sexual assault, or stalking.

8 (4) The demographic characteristics of employ-
9 ees who were eligible for and who used paid sick
10 time.

11 (b) GAO STUDY.—

12 (1) IN GENERAL.—The Comptroller General of
13 the United States shall annually conduct a study to
14 determine the following:

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

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

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

22 (C) The cost to employees of providing cer-
23 tification to obtain the paid sick time.

24 (D) The benefits of the paid sick time to
25 employees and their family members, including

1 effects on employees' ability to care for their
2 family members or to provide for their own
3 health needs.

4 (E) Whether the paid sick time affected
5 employees' ability to sustain an adequate in-
6 come while meeting needs of the employees and
7 their family members.

8 (F) Whether employers who administered
9 paid sick time policies prior to the date of en-
10 actment of this Act were affected by the provi-
11 sions of this subtitle.

12 (G) Whether other types of leave were af-
13 fected by this subtitle.

14 (H) Whether paid sick time affected reten-
15 tion and turnover and costs of presenteeism.

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

19 (J) Whether the paid sick time reduced the
20 number of children sent to school when the chil-
21 dren were sick.

22 (2) AGGREGATING DATA.—The data collected
23 under subparagraphs (A) and (D) of paragraph (1)
24 shall be aggregated by gender, race, disability, earn-

1 ings level, age, marital status, family type, including
2 parental status, and industry.

3 (3) REPORTS.—

4 (A) IN GENERAL.—Not later than 18
5 months after the date of enactment of this Act,
6 the Comptroller General of the United States
7 shall prepare and submit a report to the appro-
8 priate committees of Congress concerning the
9 results of the study conducted pursuant to
10 paragraph (1) and the data aggregated under
11 paragraph (2).

12 (B) FOLLOWUP REPORT.—Not later than
13 5 years after the date of enactment of this Act,
14 the Comptroller General of the United States
15 shall prepare and submit a followup report to
16 the appropriate committees of Congress con-
17 cerning the results of the study conducted pur-
18 suant to paragraph (1) and the data aggregated
19 under paragraph (2).

20 **SEC. 179. EFFECT ON OTHER LAWS.**

21 (a) FEDERAL AND STATE ANTIDISCRIMINATION
22 LAWS.—Nothing in this subtitle shall be construed to
23 modify or affect any Federal or State law prohibiting dis-
24 crimination on the basis of race, religion, color, national
25 origin, sex, age, or disability.

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

8 **SEC. 180. EFFECT ON EXISTING EMPLOYMENT BENEFITS.**

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

16 (b) LESS PROTECTIVE.—The rights established for
17 employees under this subtitle shall not be diminished by
18 any contract, collective bargaining agreement, or any em-
19 ployment benefit program or plan.

20 **SEC. 181. ENCOURAGEMENT OF MORE GENEROUS LEAVE**
21 **POLICIES.**

22 Nothing in this subtitle shall be construed to discour-
23 age employers from adopting or retaining leave policies
24 more generous than policies that comply with the require-
25 ments of this subtitle.

1 **SEC. 182. REGULATIONS.**

2 (a) IN GENERAL.—

3 (1) AUTHORITY.—Except as provided in para-
4 graph (2), not later than 180 days after the date of
5 enactment of this Act, the Secretary shall prescribe
6 such regulations as are necessary to carry out this
7 subtitle with respect to employees described in sub-
8 paragraph (A) or (B) of section 173(3) and other in-
9 dividuals affected by employers described in sub-
10 clause (I) or (II) of section 173(4)(A)(i).

11 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
12 BRARY OF CONGRESS.—The Comptroller General of
13 the United States and the Librarian of Congress
14 shall prescribe the regulations with respect to em-
15 ployees of the Government Accountability Office and
16 the Library of Congress, respectively and other indi-
17 viduals affected by the Comptroller General of the
18 United States and the Librarian of Congress, re-
19 spectively.

20 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
21 COUNTABILITY ACT OF 1995.—

22 (1) AUTHORITY.—Not later than 120 days
23 after the date of enactment of this Act, the Board
24 of Directors of the Office of Compliance shall pre-
25 scribe (in accordance with section 304 of the Con-
26 gressional Accountability Act of 1995 (2 U.S.C.

1 1384)) such regulations as are necessary to carry
2 out this subtitle with respect to employees described
3 in section 173(3)(C) and other individuals affected
4 by employers described in section 173(4)(A)(i)(III).

5 (2) AGENCY REGULATIONS.—The regulations
6 prescribed under paragraph (1) shall be the same as
7 substantive regulations promulgated by the Sec-
8 retary to carry out this subtitle except insofar as the
9 Board may determine, for good cause shown and
10 stated together with the regulations prescribed
11 under paragraph (1), that a modification of such
12 regulations would be more effective for the imple-
13 mentation of the rights and protections involved
14 under this section.

15 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
16 3, UNITED STATES CODE.—

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

24 (2) AGENCY REGULATIONS.—The regulations
25 prescribed under paragraph (1) shall be the same as

1 substantive regulations promulgated by the Sec-
2 retary to carry out this subtitle except insofar as the
3 President (or designee) may determine, for good
4 cause shown and stated together with the regula-
5 tions prescribed under paragraph (1), that a modi-
6 fication of such regulations would be more effective
7 for the implementation of the rights and protections
8 involved under this section.

9 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
10 5, UNITED STATES CODE.—

11 (1) AUTHORITY.—Not later than 120 days
12 after the date of enactment of this subtitle, the Di-
13 rector of the Office of Personnel Management shall
14 prescribe such regulations as are necessary to carry
15 out this subtitle with respect to employees described
16 in section 173(3)(E) and other individuals affected
17 by employers described in section 173(4)(A)(i)(V).

18 (2) AGENCY REGULATIONS.—The regulations
19 prescribed under paragraph (1) shall be the same as
20 substantive regulations promulgated by the Sec-
21 retary to carry out this subtitle except insofar as the
22 Director may determine, for good cause shown and
23 stated together with the regulations prescribed
24 under paragraph (1), that a modification of such
25 regulations would be more effective for the imple-

1 mentation of the rights and protections involved
2 under this section.

3 **SEC. 183. EFFECTIVE DATES.**

4 (a) **EFFECTIVE DATE.**—This subtitle shall take effect
5 6 months after the date of issuance of regulations under
6 section 182(a)(1).

7 (b) **COLLECTIVE BARGAINING AGREEMENTS.**—In the
8 case of a collective bargaining agreement in effect on the
9 effective date prescribed by subsection (a), this subtitle
10 shall take effect on the earlier of—

11 (1) the date of the termination of such agree-
12 ment; or

13 (2) the date that occurs 18 months after the
14 date of issuance of regulations under section
15 182(a)(1).

16 **Subtitle E—Family and Medical**
17 **Leave Enhancement Act of 2009**

18 **SEC. 191. SHORT TITLE.**

19 This subtitle may be cited as the “Family and Med-
20 ical Leave Enhancement Act of 2009”.

21 **SEC. 192. ELIGIBLE EMPLOYEE.**

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

1 **SEC. 193. ENTITLEMENT TO ADDITIONAL LEAVE UNDER**
2 **THE FMLA FOR PARENTAL INVOLVEMENT**
3 **AND FAMILY WELLNESS.**

4 (a) LEAVE REQUIREMENT.—Section 102(a) of the
5 Family and Medical Leave Act of 1993 (29 U.S.C.
6 2612(a)) is amended by adding at the end the following
7 new paragraph:

8 “(5) ENTITLEMENT TO ADDITIONAL LEAVE FOR
9 PARENTAL INVOLVEMENT AND FAMILY
10 WELLNESS.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B) and section 103(g), an eligible em-
13 ployee shall be entitled to leave under this para-
14 graph to—

15 “(i) participate in or attend an activ-
16 ity that is sponsored by a school or com-
17 munity organization and relates to a pro-
18 gram of the school or organization that is
19 attended by a son or daughter or a grand-
20 child of the employee; or

21 “(ii) meet routine family medical care
22 needs, including for medical and dental ap-
23 pointments of the employee or a son,
24 daughter, spouse, or grandchild of the em-
25 ployee, or to attend to the care needs of el-
26 derly individuals who are related to the eli-

1 gible employee, including visits to nursing
2 homes and group homes.

3 “(B) LIMITATIONS.—

4 “(i) IN GENERAL.—An eligible em-
5 ployee is entitled to—

6 “(I) not to exceed 4 hours of
7 leave under this paragraph during any
8 30-day period; and

9 “(II) not to exceed 24 hours of
10 leave under this paragraph during any
11 12-month period.

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

16 “(C) DEFINITIONS.—As used in this para-
17 graph:

18 “(i) SCHOOL.—The term ‘school’
19 means an elementary school or secondary
20 school (as such terms are defined in sec-
21 tion 9101 of the Elementary and Sec-
22 ondary Education Act of 1965 (20 U.S.C.
23 7801)), a Head Start program assisted
24 under the Head Start Act (42 U.S.C. 9831
25 et seq.), or a child care facility.

1 “(ii) COMMUNITY ORGANIZATION.—
2 The term ‘community organization’ means
3 a private nonprofit organization that is
4 representative of a community or a signifi-
5 cant segment of a community and provides
6 activities for individuals described in sub-
7 paragraph (A) or (B) of section 101(12),
8 such as a scouting or sports organiza-
9 tion.”.

10 (b) SCHEDULE.—Section 102(b)(1) of such Act (29
11 U.S.C. 2612(b)(1)) is amended by inserting after the third
12 sentence the following new sentence: “Leave under sub-
13 section (a)(5) may be taken intermittently or on a reduced
14 leave schedule.”.

15 (c) SUBSTITUTION OF PAID LEAVE.—Section
16 102(d)(2) of such Act (29 U.S.C. 2612(d)(2)) is amended
17 by adding at the end the following new subparagraph:

18 “(C) PARENTAL INVOLVEMENT LEAVE AND
19 FAMILY WELLNESS LEAVE.—An eligible em-
20 ployee may elect, or an employer may require
21 the employee, to substitute any of the accrued
22 paid vacation leave, personal leave, or family
23 leave of the employee for any leave under sub-
24 section (a)(5). In addition, an eligible employee
25 may elect, or an employer may require the em-

1 ployee, to substitute any of the accrued paid
2 medical or sick leave of the employee for leave
3 provided under clause (ii) of subsection
4 (a)(5)(A) for any part of the leave under such
5 clause, except that nothing in this title shall re-
6 quire an employer to provide paid sick leave or
7 paid medical leave in any situation in which
8 such employer would not normally provide any
9 such paid leave. If the employee elects or the
10 employer requires the substitution of accrued
11 paid leave for leave provided under subsection
12 (a)(5)(A), the employer shall not restrict or
13 limit this substitution or impose any additional
14 terms and conditions on such leave that are
15 more stringent on the employee than the terms
16 and conditions set forth in this Act.”.

17 (d) NOTICE.—Section 102(e) of such Act (29 U.S.C.
18 2612(e)) is amended by adding at the end the following
19 new paragraph:

20 “(4) NOTICE RELATING TO PARENTAL IN-
21 VOLVEMENT AND FAMILY WELLNESS LEAVE.—In
22 any case in which an employee requests leave under
23 paragraph (5) of subsection (a), the employee
24 shall—

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

6 “(B) in the case of leave to be taken under
7 subparagraph (A)(ii), make a reasonable effort
8 to schedule the leave so as not to disrupt un-
9 duly the operations of the employer, subject to
10 the approval of the health care provider in-
11 volved (if any).”.

12 (e) CERTIFICATION.—Section 103 of such Act (29
13 U.S.C. 2613) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(g) CERTIFICATION RELATED TO PARENTAL IN-
16 VOLVEMENT AND FAMILY WELLNESS LEAVE.—An em-
17 ployer may require that a request for leave under section
18 102(a)(5) be supported by a certification issued at such
19 time and in such manner as the Secretary may by regula-
20 tion prescribe.”.

21 (f) DEFINITION OF GRANDCHILD.—Section 101 of
22 the Family and Medical Leave Act of 1993 (29 U.S.C.
23 2611) is amended by adding at the end the following new
24 paragraph:

1 “(14) GRANDCHILD.—The term ‘grandchild’
2 means a son or daughter of an employee’s son or
3 daughter.”.

4 **SEC. 194. ENTITLEMENT OF FEDERAL EMPLOYEES TO**
5 **LEAVE FOR PARENTAL INVOLVEMENT AND**
6 **FAMILY WELLNESS.**

7 (a) LEAVE REQUIREMENT.—Section 6382(a) of title
8 5, United States Code, is amended by adding at the end
9 the following new paragraph:

10 “(5)(A) Subject to subparagraph (B)(i) and section
11 6383(f), an employee shall be entitled to leave under this
12 paragraph to—

13 “(i) participate in or attend an activity that is
14 sponsored by a school or community organization
15 and relates to a program of the school or organiza-
16 tion that is attended by a son or daughter or a
17 grandchild of the employee; or

18 “(ii) meet routine family medical care needs, in-
19 cluding for medical and dental appointments of a
20 son, daughter, spouse, or grandchild of the em-
21 ployee, or to attend to the care needs of elderly indi-
22 viduals who are related to the eligible employee, in-
23 cluding visits to nursing homes and group homes.

24 “(B)(i) An employee is entitled to—

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

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

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

8 “(C) For the purpose of this paragraph—

9 “(i) the term ‘school’ means an elementary
10 school or secondary school (as such terms are de-
11 fined in section 9101 of the Elementary and Sec-
12 ondary Education Act of 1965), a Head Start pro-
13 gram assisted under the Head Start Act, and a child
14 care facility licensed under State law; and

15 “(ii) the term ‘community organization’ means
16 a private nonprofit organization that is representa-
17 tive of a community or a significant segment of a
18 community and provides activities for individuals de-
19 scribed in subparagraph (A) or (B) of section
20 6381(6), such as a scouting or sports organization.”.

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

23 (1) by inserting after the second sentence the
24 following new sentence: “Leave under subsection

1 (a)(5) may be taken intermittently or on a reduced
2 leave schedule.”; and

3 (2) in the last sentence, by striking “involved,”
4 and inserting “involved (or, in the case of leave
5 under subsection (a)(5), for purposes of any 30-day
6 or 12-month period),”.

7 (c) SUBSTITUTION OF PAID LEAVE.—Section
8 6382(d) of such title is amended—

9 (1) by inserting “(1)” after the subsection des-
10 ignation; and

11 (2) by adding at the end the following:

12 “(2) An employee may elect to substitute for leave
13 under subsection (a)(5), any of the employee’s accrued or
14 accumulated annual or sick leave under subchapter I. If
15 the employee elects to substitute accumulated annual or
16 sick leave for leave provided under subsection (a)(5), the
17 employing agency shall not restrict or limit this substi-
18 tution or impose any additional terms and conditions on
19 such leave that are more stringent on the employee than
20 the terms and conditions set forth in this subchapter.”.

21 (d) NOTICE.—Section 6382(e) of such title is amend-
22 ed by adding at the end the following new paragraph:

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

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

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

10 (e) CERTIFICATION.—Section 6383(f) of such title is
11 amended by striking “6382(a)(3)” and inserting “para-
12 graph (3) or (5) of section 6382(a)”.

13 (f) DEFINITION OF GRANDCHILD.—Section 6381 of
14 title 5, United States Code, is amended—

15 (1) in paragraph (10), by striking “and” at the
16 end;

17 (2) in paragraph (11), by striking the period at
18 the end and inserting “; and”; and

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

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

1 **TITLE II—CHILD CARE**
2 **EXPANSION AND IMPROVEMENT**
3 **Subtitle A—Education Begins at**
4 **Home**

5 **SEC. 201. SHORT TITLE.**

6 This subtitle may be cited as the “Education Begins
7 at Home Act of 2009”.

8 **SEC. 202. PURPOSES.**

9 The purposes of this subtitle are as follows:

10 (1) To enable States, Indian tribes, tribal orga-
11 nizations, territories, or possessions to deliver qual-
12 ity programs of early childhood home visitation to
13 pregnant women and parents of children from birth
14 until entry into kindergarten in order to promote
15 positive outcomes for children and families including:
16 readiness for school, improved child health and de-
17 velopment, positive parenting practices, reductions in
18 child maltreatment, and enhanced parenting abilities
19 to support their children’s optimal cognitive, lan-
20 guage, social-emotional, and physical development.

21 (2) To expand quality programs of early child-
22 hood home visitation so as to more effectively reach
23 and serve families with English language learners.

1 (3) To expand quality programs of early child-
2 hood home visitation so as to more effectively reach
3 and serve families serving in the military.

4 (4) To establish a public education and aware-
5 ness campaign concerning the importance of the
6 proper care of infants and young children.

7 **SEC. 203. DEFINITIONS.**

8 In this subtitle:

9 (1) **ELIGIBLE FAMILY.**—The term “eligible
10 family” means—

11 (A) a woman who is pregnant and the fa-
12 ther of the child if the father is available; or

13 (B) a parent or primary caregiver of a
14 child under the age of entry into kindergarten,
15 including grandparents or other relatives of the
16 child, and foster parents (including kinship
17 caregivers), who are serving as the primary
18 caregiver, including a noncustodial parent who
19 has an ongoing relationship with and, at times,
20 provides physical care for such child.

21 (2) **ENGLISH LANGUAGE LEARNER.**—The term
22 “English language learner”, used with respect to an
23 individual, means an individual—

24 (A) who—

1 (i) was not born in the United States
2 or whose native language is a language
3 other than English;

4 (ii)(I) is a Native American (as de-
5 fined in section 9101 of the Elementary
6 and Secondary Education Act of 1965 (20
7 U.S.C. 7801)), an Alaska Native, or a na-
8 tive resident of an outlying area (as de-
9 fined in such section 9101); and

10 (II) comes from an environment where
11 a language other than English has had a
12 significant impact on the individual's level
13 of English language proficiency; or

14 (iii) is migratory, whose native lan-
15 guage is a language other than English,
16 and who comes from an environment where
17 a language other than English is domi-
18 nant; and

19 (B) whose difficulties in speaking or un-
20 derstanding the English language may be suffi-
21 cient to deny such individual—

22 (i) the ability to successfully achieve
23 in a classroom in which the language of in-
24 struction is English; or

1 (ii) the opportunity to participate fully
2 in society.

3 (3) HOME VISITATION.—The term “home visi-
4 tation” means services provided in the permanent or
5 temporary residence, or in a mutually agreed upon
6 location in the community, of the individual receiv-
7 ing such services.

8 (4) INDIAN TRIBE.—The term “Indian tribe”
9 has the meaning given such term in section 4(e) of
10 the Indian Self-Determination and Education Assist-
11 ance Act (25 U.S.C. 450b).

12 (5) SECRETARY.—Except as provided in section
13 206, the term “Secretary” means the Secretary of
14 Health and Human Services.

15 (6) STATE.—The term “State” means each of
16 the 50 States, the District of Columbia, and the
17 Commonwealth of Puerto Rico.

18 (7) TERRITORIES AND POSSESSIONS.—The
19 term “territories and possessions” shall include
20 American Samoa, the Commonwealth of the North-
21 ern Mariana Islands, Guam, and the United States
22 Virgin Islands.

23 (8) TRIBAL ORGANIZATION.—The term “tribal
24 organization” has the meaning given the term in

1 section 4(l) of the Indian Self-Determination and
2 Education Assistance Act (25 U.S.C. 450b).

3 **SEC. 204. GRANTS FOR EARLY CHILDHOOD HOME VISITA-**
4 **TION.**

5 (a) AUTHORIZATION.—The Secretary, in consultation
6 with the Secretary of Education, shall make grants to
7 States, Indian tribes, tribal organizations, territories and
8 possessions to enable States, Indian tribes, tribal organi-
9 zations, territories and possessions to establish or expand
10 quality programs of early childhood home visitation as
11 specified under subsection (e). Each grant shall consist of
12 the allotment determined under subsection (b).

13 (b) DETERMINATION OF RESERVATIONS; AMOUNT OF
14 ALLOTMENTS; AUTHORIZATION OF APPROPRIATIONS.—

15 (1) RESERVATIONS FROM APPROPRIATIONS.—

16 From the total amount made available to carry out
17 this section for a fiscal year, the Secretary shall re-
18 serve—

19 (A) 3 percent for an independent evalua-
20 tion of the activities carried out under this title,
21 as specified in section 207;

22 (B) not more than 3 percent for Federal
23 administrative costs;

24 (C) not more than 2 percent of the funds
25 appropriated for any fiscal year for payments to

1 Indian tribes or tribal organizations with an ap-
2 proved application under this section;

3 (D) not more than $\frac{1}{2}$ of 1 percent of the
4 funds appropriated for any fiscal year for pay-
5 ments to territories and possessions with an ap-
6 proved application under this section; and

7 (E) 2 percent for training and technical
8 assistance for States.

9 (2) STATE ALLOTMENTS FOR EARLY CHILD-
10 HOOD HOME VISITATION.—

11 (A) IN GENERAL.—In accordance with
12 subparagraph (B), the Secretary shall allot
13 among each of the eligible States the total
14 amount made available to carry out this section
15 for any fiscal year and not reserved under para-
16 graph (1), to support early childhood home visi-
17 tation programs in accordance with this section.

18 (B) DETERMINATION OF STATE ALLOT-
19 MENTS.—The Secretary shall allot the amount
20 made available under subparagraph (A) for a
21 fiscal year among the eligible States in propor-
22 tion to the number of children, aged from birth
23 through 5 years from families whose income is
24 below the poverty line, who reside within the
25 State, compared to the number of such individ-

1 uals who reside in all such States for that fiscal
2 year.

3 (3) PAYMENTS TO TRIBES AND TERRITORIES.—

4 (A) Out of the funds reserved under para-
5 graph (1)(C), the Secretary shall provide funds
6 to each Indian tribe or tribal organization with
7 an approved application under this section in
8 accordance with the respective needs described
9 in that application.

10 (B) Out of the funds reserved under para-
11 graph (1)(D), the Secretary shall provide funds
12 to each territory or possession with an approved
13 application under this section in accordance
14 with the respective needs described in that ap-
15 plication.

16 (4) APPLICATIONS OF INDIAN TRIBES, TRIBAL
17 ORGANIZATIONS, TERRITORIES, OR POSSESSIONS.—

18 (A) Subject to subparagraph (B), the Sec-
19 retary shall approve an application of an Indian
20 tribe, tribal organization, territory, or posses-
21 sion based on the quality of the application.

22 (B) The Secretary may exempt an applica-
23 tion submitted by an Indian tribe, tribal organi-
24 zation, territory, or possession from any re-
25 quirement of this section that the Secretary de-

1 termines would be inappropriate to apply taking
2 into account the resources, needs, and other cir-
3 cumstances of the Indian tribe, tribal organiza-
4 tion territory, or possession with the exception
5 of the provision of quality early childhood home
6 visitation and participation in the independent
7 evaluation outlined in section 207.

8 (5) AUTHORIZATION OF APPROPRIATIONS.—

9 There are authorized to be appropriated to carry out
10 this section \$150,000,000 for fiscal year 2010 and
11 such sums as may be necessary for fiscal years 2011
12 through 2014.

13 (c) GRANT APPLICATIONS.—A State, Indian tribe,
14 tribal organization, territory, or possession that desires to
15 receive a grant under this section shall submit an applica-
16 tion to the Secretary at such time, in such manner, and
17 containing such information as the Secretary may require.
18 For the purposes of this subsection, the term “State” in-
19 cludes Indian tribes, tribal organizations, territories, or
20 possessions. The application shall contain the following in-
21 formation:

22 (1) An assurance that the Governor of the
23 State has designated a lead State agency, such as
24 the State educational agency or the State health and

1 human services agency, to carry out the activities
2 under this section.

3 (2) An assurance that the State will reserve 3
4 percent of such grant for evaluation and will partici-
5 pate in the independent evaluation under section
6 207.

7 (3) An assurance that the State will reserve 10
8 percent of the grant funds for training and technical
9 assistance to programs of early childhood home visi-
10 tation.

11 (4) An assurance that the State will authorize
12 child care resource and referral agencies to refer
13 parents seeking home visitation services.

14 (5) An assurance that in supporting early child-
15 hood home visitation programs under this section
16 the State shall identify and prioritize serving com-
17 munities that are in high need of such services, such
18 as communities with—

19 (A) low student achievement;

20 (B) high rates of teen pregnancy;

21 (C) high proportions of families;

22 (D) high incidences of child abuse;

23 (E) high rates of children with develop-
24 mental delays or disabilities;

1 (F) large concentrations of individuals who
2 are English language learners;

3 (G) large concentrations of individuals cur-
4 rently serving in the Armed Forces; and

5 (H) large concentrations of individuals who
6 formerly served in the Armed Forces.

7 (6) The results of a statewide needs assessment
8 that describes—

9 (A) the quality and capacity of existing
10 programs of early childhood home visitation in
11 the State;

12 (B) the number and types of eligible fami-
13 lies who are receiving services under such pro-
14 grams; and

15 (C) the gaps in early childhood home visi-
16 tation in the State, including identification of
17 communities that are in high need of such serv-
18 ices.

19 (7) A State plan containing the following:

20 (A) A description of the State's plan to
21 prioritize establishing or expanding high quality
22 programs of early childhood home visitation
23 programs in communities that are in high need
24 of such programs.

1 (B) A description of the high quality pro-
2 grams of early childhood home visitation that
3 will be supported by a grant under this section.

4 (C) A description of how the proposed pro-
5 gram of early childhood home visitation will
6 promote positive parenting skills and children’s
7 early learning and development.

8 (D) A description of how the proposed pro-
9 gram of early childhood home visitation will in-
10 corporate the authorized activities described in
11 subsection (e).

12 (E) How the lead State agency will build
13 on and promote coordination among existing
14 programs of early childhood home visitation in
15 an effort to promote an array of home visitation
16 programs to ensure more eligible families are
17 being served and are getting the most appro-
18 priate services to meet their needs.

19 (F) How the lead State agency will pro-
20 mote collaboration among a broad range of
21 child- and family-serving programs, including—

22 (i) early childhood home visitation
23 programs, including targeted grants
24 awarded under sections 205 and 206;

- 1 (ii) early childhood care and education
2 programs;
- 3 (iii) activities carried out under part
4 C of the Individuals with Disabilities Edu-
5 cation Act (20 U.S.C. 1431 et seq.) and
6 section 619 of the Individuals with Disabil-
7 ities Education Act (20 U.S.C. 1419);
- 8 (iv) child abuse prevention and treat-
9 ment programs, and State and local child
10 protection systems;
- 11 (v) Medicaid and State Children's
12 Health Insurance programs;
- 13 (vi) nutrition assistance programs;
- 14 (vii) parental substance abuse and
15 mental health prevention and treatment
16 programs;
- 17 (viii) domestic and family violence
18 prevention programs;
- 19 (ix) child support enforcement pro-
20 grams;
- 21 (x) workforce development programs;
- 22 (xi) the State Temporary Assistance
23 to Needy Families program;

1 (xii) early childhood intervention pro-
2 grams, such as mental health prevention
3 and treatment services;

4 (xiii) State and local educational
5 agencies; and

6 (xiv) other appropriate child-serving
7 programs in the State in order to facilitate
8 the coordinated delivery of services for eli-
9 gible families.

10 (G) How the lead State agency will provide
11 for the training and technical assistance to pro-
12 grams of early childhood home visitation in-
13 volved in activities under this section to more
14 effectively meet the needs of the eligible families
15 served, with sensitivity to cultural variations in
16 attitudes toward formal support services and
17 parenting norms.

18 (H) How the lead State agency will evalu-
19 ate the activities supported under this section in
20 order to assess outcomes including, but not lim-
21 ited to—

22 (i) parental outcomes related to child
23 health and development, including parent
24 knowledge of early learning and develop-
25 ment;

- 1 (ii) child health, cognitive, language,
2 social-emotional, and physical development;
3 (iii) child maltreatment;
4 (iv) school readiness; and
5 (v) links to community services.

6 (I) A description of how the lead State
7 agency will ensure home visitation programs
8 prioritize outreach activities to target fathers
9 and include fathers in the program where safe
10 and appropriate.

11 (J) A description of how the lead State
12 agency will ensure that services are made avail-
13 able under the program to grandparents, other
14 relatives or foster parents, of a child from birth
15 through age 5 who serve as the primary care-
16 giver of the child.

17 (K) Such other information as the Sec-
18 retary may require.

19 (d) APPROVAL OF APPLICATIONS.—

20 (1) IN GENERAL.—The Secretary shall approve
21 an application under this section based on the rec-
22 ommendations of a peer review panel, as described
23 in paragraph (2).

24 (2) PEER REVIEW PANEL.—The peer review
25 panel shall include individuals with experience in

1 varying models of home visitation, including not
2 fewer than—

3 (A) 3 individuals who are experts in the
4 field of home visitation;

5 (B) 2 individuals who are experts in early
6 childhood development;

7 (C) 1 individual with expertise imple-
8 menting a statewide program of early childhood
9 home visitation;

10 (D) 1 individual who is a board certified
11 pediatrician or a developmental pediatrician;
12 and

13 (E) 1 individual with experience in admin-
14 istering public or private (including community-
15 based) child maltreatment prevention programs.

16 (3) RECOMMENDATIONS.—The panel shall rec-
17 ommend applicants to the Secretary based on the
18 quality of their applications. In addition to ensuring
19 that the application is complete, the panel shall con-
20 sider—

21 (A) the quality of the statewide needs as-
22 sessment, described in subsection (c)(6);

23 (B) the quality of the programs to be fund-
24 ed by the grant, described in subsection
25 (c)(7)(B), and the capacity of such programs to

1 establish or expand high quality home visitation
2 services;

3 (C) the plan to enhance and improve serv-
4 ices in the State through collaboration described
5 in subsections (e)(7)(E) and (e)(7)(F);

6 (D) the State’s plan to prioritize serving
7 communities in high need of home visitation
8 programs; and

9 (E) the State’s plan for delivering effective
10 training and technical assistance.

11 (e) STATE USES OF FUNDS.—Each State that re-
12 ceives a grant under this section shall—

13 (1) provide to as many eligible families in the
14 State as practicable, voluntary early childhood home
15 visitation, on not less frequently than a monthly
16 basis with greater frequency of services for those eli-
17 gible families identified with additional needs,
18 through the implementation of high quality pro-
19 grams of early childhood home visitation that—

20 (A) adopt a clear, consistent model that—

21 (i) is research-based;

22 (ii) is grounded in empirically based
23 knowledge related to home visiting and
24 child health or child development;

1 (iii) is linked to program-determined
2 outcomes;

3 (iv) is associated with a national orga-
4 nization or institution of higher education
5 (as defined under section 101 of the High-
6 er Education Act of 1965), that has com-
7 prehensive home visitation program stand-
8 ards, including standardized training and
9 ongoing professional development, that en-
10 sure high quality service delivery and con-
11 tinuous program quality improvement;

12 (v) has been evaluated, and the re-
13 sults of the evaluation have been published
14 in a peer-reviewed journal; and

15 (vi) has been in existence at least 3
16 consecutive years prior to the program
17 being funded under this title;

18 (B) employ well-trained and competent
19 staff, as demonstrated by education or training,
20 and the provision of ongoing and specific train-
21 ing on the model being delivered;

22 (C) maintain high quality supervision that
23 supports home visitor competencies;

24 (D) show strong organizational capacity to
25 implement the program involved;

1 (E) establish appropriate linkages and re-
2 ferral networks to other community resources
3 and supports;

4 (F) monitor fidelity of program implemen-
5 tation to assure that services are delivered ac-
6 cording to the specified model;

7 (G) establish procedures to promote par-
8 ticipation of fathers, where safe and appro-
9 priate;

10 (H) are research-based and provide par-
11 ents with—

12 (i) knowledge of age-appropriate child
13 development in cognitive, language, social-
14 emotional, and motor domains (including
15 knowledge of second language acquisition,
16 in the case of English language learners);

17 (ii) knowledge of realistic expectations
18 of age-appropriate child behaviors;

19 (iii) knowledge of health and wellness
20 issues for children and parents;

21 (iv) modeling, consulting, and coach-
22 ing on parenting practices;

23 (v) skills to interact with their child to
24 enhance age-appropriate development;

1 (vi) skills to recognize and seek help
2 for issues related to health, developmental
3 delays, and social, emotional, and behav-
4 ioral skills;

5 (vii) activities designed to help par-
6 ents become full partners in the education
7 of their children; and

8 (viii) relevant information, consistent
9 with State child welfare agency training,
10 concerning child welfare and protective
11 services resources if appropriate;

12 (I) ascertain what health and develop-
13 mental services the family receives and works
14 with providers of such services to eliminate
15 gaps in service by offering annual health, vi-
16 sion, hearing, and developmental screening for
17 children from birth to entry into kindergarten,
18 when not otherwise provided;

19 (J) provide referrals for eligible families,
20 as needed, to additional resources available in
21 the community, such as center-based early edu-
22 cation programs, child care services, health or
23 mental health services, family literacy pro-
24 grams, employment agencies, social services, fa-

1 therhood programs, and child care resource and
2 referral agencies; and

3 (K) offer group meetings (at program dis-
4 cretion) for eligible families that—

5 (i) further enhance the information,
6 activities, and skill-building addressed dur-
7 ing home visitation; and

8 (ii) offer opportunities for parents to
9 meet with and support each other.

10 (2) reserve 10 percent of the grant funds to
11 provide training and technical assistance, directly or
12 through contract, to early childhood home visitation
13 programs relating to—

14 (A) effective methods of implementing par-
15 ent education, conducting home visiting, and
16 promoting positive early childhood development;

17 (B) the relationship of health and well-
18 being of pregnant women to prenatal and early
19 childhood development;

20 (C) early childhood development with re-
21 spect to children from birth until entry into kin-
22 dergarten;

23 (D) methods to help parents promote
24 emergent literacy, including second language
25 acquisition for English language learners, in

1 their children from birth until entry into kin-
2 dergarten;

3 (E) health, vision, hearing, and develop-
4 mental screenings;

5 (F) strategies for helping eligible families
6 with special needs or those eligible families cop-
7 ing with crisis;

8 (G) recruiting, supervising, and retaining
9 qualified staff;

10 (H) increasing services for underserved
11 populations;

12 (I) methods to help parents effectively re-
13 spond to their children's needs and behaviors;

14 (J) implementation of ongoing program
15 quality improvement and evaluation of activities
16 and outcomes;

17 (K) relevant issues related to child welfare
18 and protective services, with information pro-
19 vided being consistent with State or local child
20 welfare agency training;

21 (L) effective methods of successfully en-
22 gaging fathers in programs for parents; and

23 (M) the relationship of father involvement
24 to the health and well-being of pregnant women

1 and to prenatal and early childhood develop-
2 ment;

3 (3) ensure representatives from high quality
4 programs of early childhood home visitation oper-
5 ating in the State are included in an existing State-
6 level early childhood coordinating body, such as the
7 State Advisory Council on Early Childhood Care and
8 Education (as defined in section 642B(b) of the
9 Head Start Act), that meets regularly to address
10 policy and implementation issues that will improve
11 the coordination and effectiveness of a range of serv-
12 ices for children and families; and

13 (4) use not more than 5 percent of the amount
14 of grant funds received under this section for the ad-
15 ministration of the grant, including planning, admin-
16 istration, and annual reporting.

17 (f) MAINTENANCE OF EFFORT.—A State is entitled
18 to receive its full allotment of funds under this section for
19 any fiscal year if the Secretary finds that the aggregate
20 expenditures within the State for quality programs of
21 early childhood home visitation for the fiscal year pre-
22 ceding the fiscal year for which the determination is made
23 was not less than 100 percent of such aggregate expendi-
24 tures for the second fiscal year preceding the fiscal year
25 for which the determination is made.

1 (g)(1) STATE MATCH.—In order to receive an allot-
2 ment under subsection (b)(2), a State shall match the
3 amount of such allotment with funds not derived from
4 other Federal sources on the following basis:

5 (A) 10 percent of such allotment for fiscal year
6 2011;

7 (B) 20 percent of such allotment for fiscal year
8 2012; and

9 (C) 30 percent of such allotment for fiscal year
10 2013.

11 (2) MATCH REQUIREMENT.—The funds resulting
12 from the requirement in paragraph (1) shall be exported
13 in accordance with the requirements of this section.

14 (h) REPORTING REQUIREMENTS.—Each State that
15 receives a grant under this section shall submit an annual
16 report to the Secretary regarding the State’s progress in
17 addressing the purposes of this subtitle. Such report shall
18 include, at a minimum, a description of—

19 (1) actual service delivery provided under the
20 grant including—

21 (A) program characteristics, including de-
22 scriptive information on the service model used
23 and actual program performance;

1 (B) provider characteristics, including staff
2 qualifications, work experience, and demo-
3 graphic characteristics; and

4 (C) recipient characteristics, including
5 number, demographic characteristics, and fam-
6 ily retention;

7 (2) recipient outcomes that are consistent with
8 program goals, including, where appropriate given
9 the program being evaluated—

10 (A) parent knowledge of early learning and
11 development;

12 (B) child health, cognitive, language, so-
13 cial-emotional, and physical developmental indi-
14 cators;

15 (C) child maltreatment indicators;

16 (D) school readiness indicators; and

17 (E) links to community services;

18 (3) the research-based instruction, materials,
19 and activities being used in the activities funded
20 under the grant;

21 (4) the training and technical assistance, in-
22 cluding ongoing professional development, provided
23 to programs supported under the grant;

1 (5) beginning at the end of the second year of
2 the grant, the results of evaluations described in
3 subsection (c)(7)(H); and

4 (6) the annual program implementation costs,
5 including the cost per family served under the pro-
6 gram.

7 **SEC. 205. TARGETED GRANTS FOR EARLY CHILDHOOD**
8 **HOME VISITATION FOR FAMILIES WITH**
9 **ENGLISH LANGUAGE LEARNERS.**

10 (a) **IN GENERAL.**—The Secretary, in consultation
11 with the Secretary of Education, shall make grants, on
12 a competitive basis, to eligible applicants to enable such
13 applicants to support and expand local efforts to deliver
14 services through quality programs of early childhood home
15 visitation to eligible families with English language learn-
16 ers.

17 (b) **ELIGIBLE APPLICANT.**—In this section, the term
18 “eligible applicant” means—

19 (1) 1 or more local educational agencies (as de-
20 fined in section 9101 of the Elementary and Sec-
21 ondary Education Act of 1965 (20 U.S.C. 7801));
22 and

23 (2) 1 or more public or private community-
24 based organizations or agencies that serve eligible
25 families and are capable of establishing and imple-

1 menting high quality programs of early childhood
2 home visitation.

3 (c) APPLICATIONS.—An eligible applicant that de-
4 sires to receive a grant under this section shall submit an
5 application to the Secretary at such time, in such manner,
6 and containing such information as the Secretary may re-
7 quire. The application shall include a description of—

8 (1) the results of a communitywide needs as-
9 sessment that demonstrates the need for services to
10 eligible families with English language learners and
11 describes—

12 (A) community demographics;

13 (B) the quality and capacity of existing
14 programs of early childhood home visitation for
15 eligible families with English language learners
16 in the community;

17 (C) the gaps in programs of early child-
18 hood home visitation for eligible families with
19 English language learners in the community;
20 and

21 (D) the type of program of early childhood
22 home visitation necessary to address the gaps
23 identified;

1 (2) the program of early childhood home visita-
2 tion that will be supported by the grant under this
3 section;

4 (3) how the proposed program of early child-
5 hood home visitation will promote positive parenting
6 skills and children’s early learning and development;

7 (4) how the proposed program of early child-
8 hood home visitation will incorporate the authorized
9 activities described in subsection (e);

10 (5) how services provided through a grant
11 under this section will use materials that are appro-
12 priate for eligible families with English language
13 learners;

14 (6) how the activities under this section will
15 build on and promote coordination among existing
16 programs of early childhood home visitation, if such
17 programs exist in the community, in an effort to
18 promote an array of home visitation that ensures
19 more eligible families with English language learners
20 are being served and are getting the most appro-
21 priate services to meet their needs;

22 (7) how the program will ensure that—

23 (A) where appropriate to the program
24 goals of the home visiting model, families par-
25 ticipating in early childhood home visitation

1 programs with English language learners will
2 be introduced to and connected with their local
3 schools to encourage ongoing parental involve-
4 ment in their children's education; and

5 (B) the activities under this section will
6 support the preparation of children for school;

7 (8) how channels of communication will be es-
8 tablished between staff of programs of early child-
9 hood home visitation and staff of other early child-
10 hood education programs, such as Head Start pro-
11 grams carried out under the Head Start Act (42
12 U.S.C. 9831 et seq.) and Early Head Start pro-
13 grams carried out under section 645A of such Act,
14 preschool programs, and child care programs, to fa-
15 cilitate the coordination of services for eligible fami-
16 lies with English language learners;

17 (9) how eligible families with English language
18 learners will be recruited and retained to receive
19 services under this section;

20 (10) how training and technical assistance will
21 be provided to help the staff of programs of early
22 childhood home visitation involved in activities under
23 this section to more effectively serve eligible families
24 with English language learners;

1 (11) how the eligible applicant will evaluate the
2 activities supported under this section in order to
3 demonstrate outcomes related to the—

4 (A) number of eligible families with
5 English language learners served by programs
6 of early childhood home visitation;

7 (B) parental knowledge of early learning
8 and development;

9 (C) positive parenting practices related to
10 early learning and development; and

11 (D) children’s cognitive, language, social-
12 emotional, and physical development;

13 (12) how the proposed program will conduct
14 outreach activities to target both mothers and fa-
15 thers and increase father involvement where safe
16 and appropriate; and

17 (13) such other information as the Secretary
18 may require.

19 (d) APPROVAL OF APPLICATIONS.—

20 (1) IN GENERAL.—The Secretary shall select
21 applicants for funding under this section based on
22 the quality of the applications and the recommenda-
23 tions of a peer review panel, as described in para-
24 graph (2).

1 (2) PEER REVIEW PANEL.—The peer review
2 panel shall include not fewer than—

3 (A) 2 individuals who are experts in the
4 field of home visitation;

5 (B) 2 individuals who are experts in early
6 childhood development;

7 (C) 2 individuals who are experts in serv-
8 ing eligible families with English language
9 learners;

10 (D) 1 individual who is a board certified
11 pediatrician or a developmental pediatrician;
12 and

13 (E) 1 individual with expertise in admin-
14 istering public or private (including community-
15 based) child maltreatment prevention programs.

16 (e) AUTHORIZED ACTIVITIES.—Each eligible appli-
17 cant that receives a grant under this section shall carry
18 out the following activities:

19 (1) Providing to as many eligible families with
20 English language learners as practicable, voluntary
21 early childhood home visitation, on not less fre-
22 quently than a monthly basis, through the imple-
23 mentation of quality programs of early childhood
24 home visitation that are research-based that provide
25 parents with—

1 (A) knowledge of age-appropriate child de-
2 velopment in cognitive, language, social-emo-
3 tional, and motor domains;

4 (B) knowledge of realistic expectations of
5 age-appropriate child behaviors;

6 (C) knowledge of health and wellness
7 issues for children and parents;

8 (D) modeling, consulting, and coaching on
9 parenting practices;

10 (E) skills to interact with their child to en-
11 hance age-appropriate development;

12 (F) skills to recognize and seek help for
13 issues related to health, developmental delays,
14 and social, emotional, and behavioral skills; and

15 (G) activities designed to help parents be-
16 come full partners in the education of their chil-
17 dren.

18 (2) Ascertaining what health and developmental
19 services the family receives and working with these
20 providers to eliminate gaps in service by offering an-
21 nual health, vision, hearing, and developmental
22 screening for children from birth to entry into kin-
23 dergarten, when not otherwise provided.

24 (3) Providing referrals for participating eligible
25 families with English language learners, as needed,

1 to additional resources available in the community,
2 such as center-based early education programs, child
3 care services, health or mental health services, fam-
4 ily literacy programs, employment agencies, social
5 services, and child care resource and referral agen-
6 cies.

7 (4) Offering group meetings (at program dis-
8 cretion), on not less frequently than a monthly basis,
9 for eligible families with English language learners
10 that—

11 (A) further enhance the information, ac-
12 tivities, and skill-building addressed during
13 home visitation;

14 (B) offer opportunities for parents to meet
15 with and support each other; and

16 (C) address challenges facing eligible fami-
17 lies with English language learners.

18 (5) Providing training and technical assistance
19 to early childhood home visitation staff relating to—

20 (A) effective service to eligible families
21 with English language learners, including skills
22 to address challenges facing English language
23 learners;

24 (B) effective methods of implementing par-
25 ent education, conducting home visiting, and

1 promoting quality early childhood development,
2 with sensitivity to cultural variations in par-
3 enting norms and attitudes toward formal sup-
4 port services;

5 (C) the relationship of health and well-
6 being of pregnant women to prenatal and early
7 child development;

8 (D) early childhood development with re-
9 spect to children from birth until entry into kin-
10 dergarten;

11 (E) methods to help parents promote
12 emergent literacy in their children from birth
13 until entry into kindergarten;

14 (F) implementing strategies for helping eli-
15 gible families with English language learners
16 coping with a crisis;

17 (G) recruiting, supervising, and retaining
18 qualified staff;

19 (H) increasing services for underserved eli-
20 gible families with English language learners;

21 (I) methods to help parents effectively re-
22 spond to their children's needs and behaviors;

23 (J) implementation of ongoing program
24 quality improvement and evaluation of activities
25 and outcomes; and

1 (K) the relationship of father involvement
2 to the health and well-being of pregnant women
3 and to prenatal and early childhood develop-
4 ment.

5 (6) Coordinating existing programs of early
6 childhood home visitation in order to effectively and
7 efficiently meet the needs of more eligible families
8 with English language learners.

9 (f) REPORTING REQUIREMENTS.—Each applicant
10 that receives a grant under this section to carry out a pro-
11 gram shall submit an annual report to the Secretary, and
12 the lead State agency as described in section 204(c)(1),
13 regarding the progress of such program in addressing the
14 purposes of this subtitle. Such report shall include, at a
15 minimum, a description of—

16 (1) actual service delivery provided under the
17 grant including—

18 (A) program characteristics including de-
19 scriptive information on the service model used
20 and actual program performance;

21 (B) provider characteristics including staff
22 qualifications, work experience, and demo-
23 graphic characteristics;

1 (C) recipient characteristics including
2 number, demographic characteristics, and rates
3 of family retention in programs; and

4 (D) an estimate of annual program imple-
5 mentation costs;

6 (2) recipient outcomes that are consistent with
7 program goals including, where appropriate given
8 the program being evaluated—

9 (A) parental practices;

10 (B) child health and development indica-
11 tors;

12 (C) child maltreatment indicators;

13 (D) school readiness indicators; and

14 (E) links to community services;

15 (3) the research-based instruction, materials,
16 and activities being used in the activities funded
17 under the grant; and

18 (4) the training and technical assistance, in-
19 cluding ongoing professional development, provided
20 to programs supported under the grant.

21 (g) SUPPLEMENT NOT SUPPLANT.—Grant funds
22 provided under this section shall be used to supplement,
23 and not supplant, Federal and non-Federal funds available
24 for carrying out the activities described in this section.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$20,000,000 for fiscal year 2010 and such sums for fiscal
4 years 2011 through 2014.

5 **SEC. 206. TARGETED GRANTS FOR EARLY CHILDHOOD**
6 **HOME VISITATION FOR MILITARY FAMILIES.**

7 (a) IN GENERAL.—The Secretary of Defense, in con-
8 sultation with the Secretary of Education and the Sec-
9 retary of Health and Human Services, shall make grants,
10 on a competitive basis, to eligible applicants to enable such
11 applicants to support and expand efforts to deliver services
12 through high quality programs of early childhood home
13 visitation to eligible families with a family member in the
14 Armed Forces.

15 (b) ELIGIBLE APPLICANT.—In this section, the term
16 “eligible applicant” means any of the following:

17 (1) A local educational agency that receives
18 payments under title VIII of the Elementary and
19 Secondary Education Act of 1965 (20 U.S.C. 7701
20 et seq.).

21 (2) A school of the defense dependents’ edu-
22 cation system under the Defense Dependents’ Edu-
23 cation Act of 1978 (20 U.S.C. 921 et seq.).

24 (3) A school established under section 2164 of
25 title 10, United States Code.

1 (4) A community-based organization serving
2 families with a family member in the Armed Forces.

3 (c) APPLICATIONS.—An eligible applicant that de-
4 sires to receive a grant under this section shall submit an
5 application to the Secretary of Defense at such time, in
6 such manner, and containing such information as the Sec-
7 retary of Defense may require. The application shall in-
8 clude a description of—

9 (1) the results of a communitywide needs as-
10 sessment that demonstrates the need for services to
11 eligible families with a family member in the Armed
12 Forces and describes—

13 (A) community demographics;

14 (B) the quality and capacity of existing
15 programs of early childhood home visitation for
16 eligible families with a family member in the
17 Armed Forces;

18 (C) the gaps in programs of early child-
19 hood home visitation for eligible families with a
20 family member in the Armed Forces; and

21 (D) the type of program of early childhood
22 home visitation necessary to address the gaps
23 identified;

1 (2) the program of early childhood home visita-
2 tion that will be supported by the grant under this
3 section;

4 (3) how the proposed program of early child-
5 hood home visitation will promote positive parenting
6 skills and children’s early learning and development;

7 (4) how the proposed program of early child-
8 hood home visitation will incorporate the authorized
9 activities described in subsection (f);

10 (5) how services provided through a grant
11 under this section will use materials that are appro-
12 priate toward eligible families with a family member
13 in the Armed Forces;

14 (6) how the activities under this section will
15 build on and promote coordination with existing pro-
16 grams of early childhood home visitation, if such
17 programs exist in the community, in an effort to
18 promote an array of home visitation that ensures
19 more eligible families with a family member in the
20 Armed Forces are being served and are getting the
21 most appropriate services to meet their needs;

22 (7) how the program will ensure that—

23 (A) where appropriate to the program
24 goals of the home visiting model, families par-
25 ticipating in early childhood home visitation

1 programs with a family member in the Armed
2 Forces will be introduced to and connected with
3 their local schools to encourage ongoing paren-
4 tal involvement in their children's education;
5 and

6 (B) the activities under this section will
7 support the preparation of children for school;

8 (8) how channels of communication will be es-
9 tablished between staff of programs of early child-
10 hood home visitation and staff of other early child-
11 hood education programs, such as Head Start pro-
12 grams carried out under the Head Start Act (42
13 U.S.C. 9831 et seq.) and Early Head Start pro-
14 grams carried out under section 645A of such Act,
15 preschool programs, family support programs, and
16 child care programs, to facilitate the coordination of
17 services for eligible families with a family member in
18 the Armed Forces;

19 (9) how eligible families with a family member
20 in the Armed Forces will be recruited and retained
21 to receive services under this section;

22 (10) how training and technical assistance will
23 be provided to help programs of early childhood
24 home visitation involved in activities under this sec-

1 tion to more effectively serve eligible families with a
2 family member in the Armed Forces;

3 (11) how the eligible applicant will evaluate the
4 activities supported under this section in order to
5 demonstrate outcomes related to the—

6 (A) number of eligible families with a fam-
7 ily member in the Armed Forces served by pro-
8 grams of early childhood home visitation;

9 (B) parental knowledge of early learning
10 and development;

11 (C) positive parenting practices related to
12 early learning and development; and

13 (D) children’s cognitive, language, social-
14 emotional, and physical development;

15 (12) how the proposed program will conduct
16 outreach activities to target both mothers and fa-
17 thers and increase father involvement where safe
18 and appropriate; and

19 (13) such other information as the Secretary of
20 Defense may require.

21 (d) APPROVAL OF LOCAL APPLICATIONS.—

22 (1) IN GENERAL.—The Secretary of Defense
23 shall select applicants for funding under this section
24 based on the quality of the applications and the rec-

1 ommendations of a peer review panel, as described
2 in paragraph (2).

3 (2) PEER REVIEW PANEL.—The peer review
4 panel shall include not fewer than—

5 (A) 2 individuals who are experts in the
6 field of home visitation;

7 (B) 2 individuals who are experts in early
8 childhood development;

9 (C) 2 individuals who are experts in family
10 support for military families;

11 (D) 1 individual who is a board certified
12 pediatrician or developmental pediatrician; and

13 (E) 1 individual with expertise in admin-
14 istering public or private (including community-
15 based) child maltreatment prevention programs.

16 (e) AUTHORIZED ACTIVITIES.—Each eligible appli-
17 cant that receives a grant under this section shall carry
18 out the following activities:

19 (1) Providing to as many eligible families with
20 a family member in the Armed Forces as prac-
21 ticable, voluntary early childhood home visitation, on
22 not less frequently than a monthly basis, through
23 the implementation of quality programs of early
24 childhood home visitation that are research-based
25 and that provide parents with—

1 (A) knowledge of age-appropriate child de-
2 velopment in cognitive, language, social-emo-
3 tional, and motor domains;

4 (B) knowledge of realistic expectations of
5 age-appropriate child behaviors;

6 (C) knowledge of health and wellness
7 issues for children and parents;

8 (D) modeling, consulting, and coaching on
9 parenting practices;

10 (E) skills to interact with their child to en-
11 hance age-appropriate development;

12 (F) skills to recognize and seek help for
13 issues related to health, developmental delays,
14 and social, emotional, and behavioral skills; and

15 (G) activities designed to help parents be-
16 come full partners in the education of their chil-
17 dren.

18 (2) Ascertaining what health and developmental
19 services the family receives and working with these
20 providers to eliminate gaps in service by offering an-
21 nual health, vision, hearing, and developmental
22 screening for children from birth to entry into kin-
23 dergarten, when not otherwise provided.

24 (3) Providing referrals for participating eligible
25 families with a family member in the Armed Forces,

1 as needed, to additional resources available in the
2 community, such as center-based early education
3 programs, child care services, health or mental
4 health services, family literacy programs, employ-
5 ment agencies, social services, and child care re-
6 source and referral agencies.

7 (4) Offering group meetings (at program dis-
8 cretion), on not less frequently than a monthly basis,
9 for eligible families with a family member in the
10 Armed Forces that—

11 (A) further enhance the information, ac-
12 tivities, and skill-building addressed during
13 home visitation;

14 (B) offer opportunities for parents to meet
15 with and support each other; and

16 (C) address challenges facing eligible fami-
17 lies with a family member in the Armed Forces.

18 (5) Providing training and technical assistance
19 to early childhood home visitation staff relating to—

20 (A) effective service to eligible families
21 with a family member in the Armed Forces;

22 (B) effective methods of implementing par-
23 ent education, conducting home visiting, and
24 promoting quality early childhood development,
25 with sensitivity to cultural variations in par-

1 enting norms and attitudes toward formal sup-
2 port services;

3 (C) the relationship of health and well-
4 being of pregnant women to prenatal and early
5 child development;

6 (D) early childhood development with re-
7 spect to children from birth until entry into kin-
8 dergarten;

9 (E) methods to help parents promote
10 emergent literacy in their children from birth
11 until entry into kindergarten;

12 (F) implementing strategies for helping eli-
13 gible families with a family member in the
14 Armed Forces coping with crisis;

15 (G) recruiting, supervising, and retaining
16 qualified staff;

17 (H) increasing services for underserved eli-
18 gible families with a family member in the
19 Armed Forces;

20 (I) methods to help parents effectively re-
21 spond to their children's needs and behaviors;

22 (J) implementation of ongoing program
23 quality improvement and evaluation of activities
24 and outcomes; and

1 (K) the relationship of father involvement
2 to the health and well-being of pregnant women
3 and to prenatal and early childhood develop-
4 ment.

5 (6) Coordinating existing programs of early
6 childhood home visitation in order to effectively and
7 efficiently meet the needs of more eligible families
8 with a family member in the Armed Forces.

9 (f) REPORTING REQUIREMENTS.—Each applicant
10 that receives a grant under this section to carry out a pro-
11 gram shall submit an annual report to the Secretary, and
12 the lead State agency as described in section 204(c)(1),
13 regarding the progress of such program in addressing the
14 purposes of this subtitle. Such report shall include, at a
15 minimum, a description of—

16 (1) actual service delivery provided under the
17 grant including—

18 (A) program characteristics including de-
19 scriptive information on the service model used
20 and actual program performance;

21 (B) provider characteristics including staff
22 qualifications, work experience, and demo-
23 graphic characteristics;

1 (C) recipient characteristics including
2 number, demographic characteristics, and fam-
3 ily retention; and

4 (D) an estimate of annual program imple-
5 mentation costs;

6 (2) recipient outcomes that are consistent with
7 program goals including, where appropriate given
8 the program being evaluated—

9 (A) parental practices;

10 (B) child health and development indica-
11 tors;

12 (C) child maltreatment indicators;

13 (D) school readiness indicators; and

14 (E) links to community services;

15 (3) the research-based instruction, materials,
16 and activities being used in the activities funded
17 under the grant; and

18 (4) the training and technical assistance, in-
19 cluding ongoing professional development, provided
20 to programs supported under the grant.

21 (g) SUPPLEMENT NOT SUPPLANT.—Grant funds
22 provided under this section shall be used to supplement,
23 and not supplant, Federal and non-Federal funds available
24 for carrying out the activities described in this section.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 \$20,000,000 for fiscal year 2010 and such sums as may
4 be necessary for fiscal years 2011 through 2014.

5 **SEC. 207. EVALUATION.**

6 (a) IN GENERAL.—From funds reserved under sec-
7 tion 204(b)(1)(A), the Secretary shall conduct, through
8 grant or contract, an independent evaluation of the effec-
9 tiveness of home visitation programs carried out under
10 this subtitle.

11 (b) REPORTS.—

12 (1) INTERIM REPORT.—Not later than 2 years
13 after the date of enactment of this subtitle, the Sec-
14 retary shall submit an interim report on the evalua-
15 tion conducted pursuant to subsection (a) to the
16 Committee on Health, Education, Labor, and Pen-
17 sions of the Senate and the Committee on Education
18 and Labor of the House of Representatives.

19 (2) FINAL REPORT.—Not later than 4 years
20 after the date of enactment of this subtitle, the Sec-
21 retary shall submit a final report on the evaluation
22 conducted pursuant to subsection (a) to the commit-
23 tees described in paragraph (1).

24 (c) STUDY.—The independent evaluation conducted
25 under this section shall examine the following:

1 (1) The effect of home visiting programs on
2 child and parent outcomes, consistent with program
3 goals, including, where appropriate given the pro-
4 gram being evaluated, parental outcomes related to
5 child health and development, parenting practices,
6 child health and development, child maltreatment,
7 school readiness, and links to community services.

8 (2) The effectiveness of early childhood home
9 visitation on different populations, including the ex-
10 tent to which variability exists in program ability to
11 improve outcomes across programs and populations.

12 **SEC. 208. REPORTS TO CONGRESS.**

13 (a) **IN GENERAL.**—The Secretary shall annually pro-
14 vide a report to the Committee on Education and Labor
15 in the House of Representatives and the Committee on
16 Health, Education, Labor, and Pensions in the Senate, in-
17 formation on the activities carried out under this subtitle.

18 (b) **CONTENT.**—The reports submitted under this
19 section shall, at a minimum, include information about the
20 programs carried out under this subtitle, including infor-
21 mation on the following:

22 (1) descriptions of the high need communities
23 targeted by States for programs carried out under
24 this subtitle;

1 (2) the service delivery models funded under
2 this subtitle;

3 (3) program characteristics, including—

4 (A) staff qualifications and demographic
5 characteristics; and

6 (B) recipient characteristics including the
7 number of families served, the demographic
8 characteristics of the families served, and fam-
9 ily retention and duration of services;

10 (4) program-reported outcomes;

11 (5) the findings from State evaluations;

12 (6) the research-based instruction, materials,
13 and activities being used in the activities funded
14 under the grant;

15 (7) the training and technical activities, includ-
16 ing ongoing professional development, provided to
17 programs; and

18 (8) the annual program implementation costs,
19 including the cost per family served under the pro-
20 gram.

21 **SEC. 209. SUPPORTING NEW PARENTS THROUGH HOSPITAL**
22 **EDUCATION.**

23 (a) IN GENERAL.—The Secretary shall develop and
24 implement a public information and educational campaign
25 to inform the public and new parents about the impor-

1 tance of proper care for infants and children under 5 years
2 of age, including healthy parent-child relationships, the de-
3 mands and stress associated with caring for infants, posi-
4 tive responses to infants' challenging behaviors including
5 awareness of their social, emotional, and physical needs,
6 awareness of the vulnerability of young children to abusive
7 practices, and the signs and treatment of post-partum de-
8 pression.

9 (b) ELEMENTS.—

10 (1) IN GENERAL.—The campaign developed
11 under subsection (a) shall include the following ele-
12 ments:

13 (A) The dissemination of educational and
14 informational materials in print, audio, video,
15 electronic, and other media.

16 (B) The use of public service announce-
17 ments and advertisements.

18 (C) The dissemination of effective child
19 abuse prevention practices and techniques, in-
20 cluding information about research-based home
21 visiting programs, respite care, crisis nurseries,
22 and parent support networks, to parents, care-
23 givers, maternity hospitals, children's hospitals,
24 pediatricians, child care centers, organizations
25 providing prenatal and postnatal care, and or-

1 organizations providing parenting education and
2 support services.

3 (D) Connection to existing parental in-
4 volvement programs.

5 (2) EXISTING PROGRAMS.—The Secretary, in
6 implementing and executing the public information
7 and educational campaign under this section, should
8 seek collaboration with and referrals to existing pa-
9 rental involvement programs that specialize in
10 strengthening children’s cognitive skills, early lit-
11 eracy skills, social or emotional and physical develop-
12 ment and existing prenatal and early childhood home
13 visitation programs.

14 (3) EXISTING STATE REQUIREMENTS.—The
15 Secretary, in implementing and executing the public
16 information and educational campaign under this
17 section, shall consider with pre-existing State re-
18 quirements to ensure that no unnecessary burdens
19 are placed on hospitals, military hospitals, and birth
20 centers receiving educational materials.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this section
23 such sums as may be necessary for fiscal years 2010
24 through 2014.

1 **Subtitle B—Care for Young**
2 **Children**

3 **SEC. 215. EXPANDING CHILD CARE FOR YOUNG CHILDREN.**

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

7 (1) in paragraph (4), by striking “and”;

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

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

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

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
14 658B of the Child Care and Development Block Grant Act
15 of 1990 (42 U.S.C. 9858) is amended—

16 (1) by striking “There” and inserting “(a) In
17 General.—There”; and

18 (2) by adding at the end the following:

19 “(b) CHILD CARE ACTIVITIES FOR YOUNG CHIL-
20 DREN.—In addition to amounts appropriated under sub-
21 section (a), there is authorized to be appropriated to carry
22 out child care activities for young children under this sub-
23 chapter \$500,000,000 for each of the fiscal years 2008,
24 2009, and 2010.”.

1 (c) CHILD CARE ACTIVITIES FOR YOUNG CHIL-
2 DREN.—The Child Care and Development Block Grant
3 Act of 1990 (42 U.S.C. 9801 et seq.) is amended by in-
4 serting after section 658G the following:

5 **“SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL-**
6 **DREN.**

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

10 “(1) Increase the availability of child care serv-
11 ices for young children with disabilities.

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

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

21 “(4) Provide funds to increase compensation of-
22 fered and provide bonuses to caregivers, eligible
23 child care providers, and family child care providers
24 who provide child care to children under the age of
25 3 years, especially those caregivers and providers

1 who have formal education in early childhood devel-
2 opment.

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

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

10 (d) DEFINITIONS.—Section 658P of the Child Care
11 and Development Block Grant Act of 1990 (42 U.S.C.
12 9858n) is amended by adding at the end the following:

13 “(15) YOUNG CHILDREN.—The term ‘young
14 children’ means eligible children who are less than 3
15 years of age.”.

16 **Subtitle C—Improving Child Care**
17 **Quality Through Teacher Incen-**
18 **tives**

19 **SEC. 221. PURPOSE.**

20 The purposes of this subtitle are—

21 (1) to establish the Child Care Provider Devel-
22 opment and Retention Grant Program, the Child
23 Care Provider Scholarship Program, and a program
24 of child care provider health benefits coverage; and

1 (2) to help children receive the high quality
2 child care and early education the children need for
3 positive cognitive and social development, by reward-
4 ing and promoting the retention of committed, quali-
5 fied child care providers and by providing financial
6 assistance to improve the educational qualifications
7 of child care providers.

8 **SEC. 222. DEFINITIONS.**

9 In this subtitle:

10 (1) CHILD CARE PROVIDER.—The term “child
11 care provider” means an individual who provides a
12 service directly to a child on a person-to-person basis
13 for compensation for—

14 (A) a center-based child care provider that
15 is licensed or regulated under State or local law
16 and that satisfies the State and local require-
17 ments applicable to the child care services pro-
18 vided;

19 (B) a licensed or regulated family child
20 care provider that satisfies the State and local
21 requirements applicable to the child care serv-
22 ices provided; or

23 (C) an out-of-school time program that is
24 licensed or regulated under State or local law
25 and that satisfies the State and local require-

1 ments applicable to the child care services pro-
2 vided.

3 (2) FAMILY CHILD CARE PROVIDER.—The term
4 “family child care provider” has the meaning given
5 such term in section 658P of the Child Care and
6 Development Block Grant Act of 1990 (42 U.S.C.
7 9858n).

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

12 (4) LEAD AGENCY.—The term “lead agency”
13 means the agency designated under section 658D of
14 the Child Care and Development Block Grant Act of
15 1990 (42 U.S.C. 9858b).

16 (5) SECRETARY.—The term “Secretary” means
17 the Secretary of Health and Human Services.

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

23 (7) TRIBAL ORGANIZATION.—The term “tribal
24 organization” has the meaning given the term in

1 section 4 of the Indian Self-Determination and Edu-
2 cation Assistance Act (25 U.S.C. 450b).

3 **SEC. 223. FUNDS FOR CHILD CARE PROVIDER DEVELOP-**
4 **MENT AND RETENTION GRANTS, SCHOLAR-**
5 **SHIPS, AND HEALTH BENEFITS COVERAGE.**

6 (a) IN GENERAL.—From amounts appropriated to
7 carry out this subtitle, the Secretary may allot and dis-
8 tribute funds to eligible States, and make payments to In-
9 dian tribes and tribal organizations, to pay for the Federal
10 share of the cost of carrying out activities under sections
11 226, 227, and 228 for eligible child care providers.

12 (b) ALLOTMENTS.—The funds shall be allotted and
13 distributed, and the payments shall be made, by the Sec-
14 retary in accordance with section 224, and expended by
15 the States (directly, or at the option of the States, through
16 units of general purpose local government), and by Indian
17 tribes and tribal organizations, in accordance with this
18 subtitle.

19 **SEC. 224. ALLOTMENTS TO STATES.**

20 (a) AMOUNTS RESERVED.—

21 (1) TERRITORIES AND POSSESSIONS.—The Sec-
22 retary shall reserve not more than $\frac{1}{2}$ of 1 percent
23 of the funds appropriated under section 231(a), and
24 not more than $\frac{1}{2}$ of 1 percent of the funds appro-
25 priated under section 232(b), for any fiscal year for

1 payments to the Virgin Islands of the United States,
2 Guam, American Samoa, and the Commonwealth of
3 the Northern Mariana Islands, to be allotted in ac-
4 cordance with their respective needs.

5 (2) INDIAN TRIBES AND TRIBAL ORGANIZA-
6 TIONS.—The Secretary shall reserve not more than
7 3 percent of the funds appropriated under section
8 231(a), and not more than 3 percent of the funds
9 appropriated under section 231(b), for any fiscal
10 year for payments to Indian tribes and tribal organi-
11 zations with applications approved under subsection
12 (c).

13 (b) ALLOTMENTS TO REMAINING STATES.—

14 (1) GENERAL AUTHORITY.—From the funds
15 appropriated under section 231(a) for any fiscal year
16 and remaining after the reservations made under
17 subsection (a), and from the funds appropriated
18 under section 231(b) for any fiscal year and remain-
19 ing after the reservations made under subsection (a),
20 the Secretary shall allot to each State an amount
21 equal to the sum of—

22 (A) an amount that bears the same ratio
23 to 50 percent of the appropriate remainder as
24 the product of the young child factor of the
25 State and the allotment percentage of the State

1 bears to the sum of the corresponding products
2 for all States; and

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

9 (2) YOUNG CHILD FACTOR.—In this subsection,
10 the term “young child factor” means the ratio of the
11 number of children under 5 years of age in the State
12 to the number of such children in all the States, as
13 determined according to the most recent annual esti-
14 mates of population in the States, as provided by the
15 Bureau of the Census.

16 (3) SCHOOL LUNCH FACTOR.—In this sub-
17 section, the term “school lunch factor” means the
18 ratio of the number of children who are receiving
19 free or reduced price lunches under the school lunch
20 program established under the Richard B. Russell
21 National School Lunch Act (42 U.S.C. 1751 et seq.)
22 in the State to the number of such children in all
23 the States, as determined annually by the Depart-
24 ment of Agriculture.

25 (4) ALLOTMENT PERCENTAGE.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), for purposes of this sub-
3 section, the allotment percentage for a State
4 shall be determined by dividing the per capita
5 income of all individuals in the United States,
6 by the per capita income of all individuals in
7 the State.

8 (B) LIMITATIONS.—For purposes of this
9 subsection, if an allotment percentage deter-
10 mined under subparagraph (A)—

11 (i) is more than 1.2 percent, the allot-
12 ment percentage of that State shall be con-
13 sidered to be 1.2 percent; and

14 (ii) is less than 0.8 percent, the allot-
15 ment percentage of the State shall be con-
16 sidered to be 0.8 percent.

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

20 (i) determined at 2-year intervals;

21 (ii) applied for the 2-year period be-
22 ginning on October 1 of the first fiscal
23 year beginning after the date such deter-
24 mination is made; and

1 (iii) equal to the average of the an-
2 nual per capita incomes for the most re-
3 cent period of 3 consecutive years for
4 which satisfactory data are available from
5 the Department of Commerce at the time
6 such determination is made.

7 (c) PAYMENTS TO INDIAN TRIBES AND TRIBAL OR-
8 GANIZATIONS.—

9 (1) RESERVATION OF FUNDS.—From amounts
10 reserved under subsection (a)(2), the Secretary may
11 make grants to or enter into contracts with Indian
12 tribes and tribal organizations that submit applica-
13 tions under this subsection, to plan and carry out
14 programs and activities—

15 (A) to encourage child care providers to
16 improve their qualifications;

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

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

21 (2) APPLICATIONS AND REQUIREMENTS.—To
22 be eligible to receive a grant or contract under this
23 subsection, an Indian tribe or tribal organization
24 shall submit an application to the Secretary at such
25 time, in such manner, and containing such informa-

1 tion as the Secretary may require. The application
2 shall provide that the applicant—

3 (A) will coordinate the programs and ac-
4 tivities involved, to the maximum extent prac-
5 ticable, with the lead agency in each State in
6 which the applicant will carry out such pro-
7 grams and activities; and

8 (B) will make such reports on, and conduct
9 such audits of the funds made available through
10 the grant or contract for, programs and activi-
11 ties under this subtitle as the Secretary may re-
12 quire.

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

17 (e) REALLOTMENTS.—

18 (1) IN GENERAL.—Any portion of an allotment
19 under subsection (b) to a State for a fiscal year that
20 the Secretary determines will not be distributed to
21 the State for such fiscal year shall be reallocated by
22 the Secretary to other States in proportion to the
23 original corresponding allotments made under such
24 subsection to such States for such fiscal year.

25 (2) LIMITATIONS.—

1 (A) REDUCTION.—The amount of any re-
2 allotment to which a State is entitled under this
3 subsection shall be reduced to the extent that
4 such amount exceeds the amount that the Sec-
5 retary estimates will be distributed to the State
6 to carry out corresponding activities under this
7 subtitle.

8 (B) REALLOTMENTS.—The amount of
9 such reduction shall be reallocated to States for
10 which no reduction in a corresponding allot-
11 ment, or in a corresponding reallocation, is re-
12 quired by this subsection, in proportion to the
13 original corresponding allotments made under
14 subsection (b) to such States for such fiscal
15 year.

16 (3) AMOUNTS REALLOCATED.—For purposes of
17 this subtitle (other than this subsection and sub-
18 section (b)), any amount reallocated to a State under
19 this subsection shall be considered to be part of the
20 corresponding allotment made under subsection (b)
21 to the State.

22 (4) INDIAN TRIBES OR TRIBAL ORGANIZA-
23 TIONS.—Any portion of a grant or contract made to
24 an Indian tribe or tribal organization under sub-
25 section (c) that the Secretary determines is not

1 being used in a manner consistent with the provi-
2 sions of this subtitle in the period for which the
3 grant or contract is made available, shall be used by
4 the Secretary to make payments to other tribes or
5 organizations that have submitted applications under
6 subsection (c) in accordance with their respective
7 needs.

8 (f) COST-SHARING.—

9 (1) CHILD CARE PROVIDER DEVELOPMENT AND
10 RETENTION GRANTS AND SCHOLARSHIPS.—

11 (A) FEDERAL SHARE.—The Federal share
12 of the cost of carrying out activities under sec-
13 tions 226 and 227, with funds allotted under
14 this section and distributed by the Secretary to
15 a State, shall be—

16 (i) not more than 90 percent of the
17 cost of each grant made under such sec-
18 tions, in the first fiscal year for which the
19 State receives such funds;

20 (ii) not more than 85 percent of the
21 cost of each grant made under such sec-
22 tions, in the second fiscal year for which
23 the State receives such funds;

24 (iii) not more than 80 percent of the
25 cost of each grant made under such sec-

1 tions, in the third fiscal year for which the
2 State receives such funds; and

3 (iv) not more than 75 percent of the
4 cost of each grant made under such sec-
5 tions, in any subsequent fiscal year for
6 which the State receives such funds.

7 (B) NON-FEDERAL SHARE.—

8 (i) IN GENERAL.—The State may pro-
9 vide the non-Federal share of the cost in
10 cash or in the form of an in-kind contribu-
11 tion, fairly evaluated by the Secretary.

12 (ii) IN-KIND CONTRIBUTION.—In this
13 subparagraph, the term “in-kind contribu-
14 tion” means payment of the costs of par-
15 ticipation of eligible child care providers in
16 health insurance programs or retirement
17 programs.

18 (2) CHILD CARE PROVIDER HEALTH BENEFITS
19 COVERAGE.—

20 (A) FEDERAL SHARE.—The Federal share
21 of the cost of carrying out activities under sec-
22 tion 228, with funds allotted under this section
23 and distributed by the Secretary to a State,
24 shall be not more than 50 percent of such cost.

1 (B) NON-FEDERAL SHARE.—The State
2 may provide the non-Federal share of the cost
3 in cash or in kind, fairly evaluated by the Sec-
4 retary, including plant, equipment, or services.
5 The State shall provide the non-Federal share
6 directly or through donations from public or
7 private entities. Amounts provided by the Fed-
8 eral Government, or services assisted or sub-
9 sidized to any significant extent by the Federal
10 Government, may not be included in deter-
11 mining the amount of such share.

12 (g) AVAILABILITY OF ALLOTTED FUNDS DISTRIB-
13 UTED TO STATES.—Of the funds allotted under this sec-
14 tion for activities described in sections 226 and 227 and
15 distributed by the Secretary to a State for a fiscal year—

16 (1) not less than 67.5 percent shall be available
17 to the State for grants under section 226;

18 (2) not less than 22.5 percent shall be available
19 to the State for grants under section 227; and

20 (3) not more than 10 percent shall be available
21 to pay administrative costs incurred by the State to
22 carry out activities described in sections 226 and
23 227.

24 (h) DEFINITION.—For the purposes of subsections
25 (a) through (e), the term “State” includes only the 50

1 States, the District of Columbia, and the Commonwealth
2 of Puerto Rico.

3 **SEC. 225. APPLICATION AND PLAN.**

4 (a) APPLICATION.—To be eligible to receive a dis-
5 tribution of funds allotted under section 224, a State shall
6 submit to the Secretary an application at such time, in
7 such manner, and containing such information as the Sec-
8 retary may require by rule and shall include in such appli-
9 cation—

10 (1) a State plan that satisfies the requirements
11 of subsection (b); and

12 (2) assurances of compliance satisfactory to the
13 Secretary with respect to the requirements of section
14 228.

15 (b) REQUIREMENTS OF PLAN.—

16 (1) LEAD AGENCY.—The State plan shall iden-
17 tify the lead agency to make grants under this sub-
18 title for the State.

19 (2) RECRUITMENT AND RETENTION OF CHILD
20 CARE PROVIDERS.—The State plan shall describe
21 how the lead agency will encourage both the recruit-
22 ment of qualified child care providers who are new
23 to the child care field and the retention of qualified
24 child care providers who have a demonstrated com-
25 mitment to the child care field.

1 (3) NOTIFICATION OF AVAILABILITY OF GRANTS
2 AND BENEFITS.—The State plan shall describe how
3 the lead agency will identify all eligible child care
4 providers in the State and notify the providers of the
5 availability of grants and benefits under this sub-
6 title.

7 (4) DISTRIBUTION OF GRANTS.—The State
8 plan shall describe how the lead agency will make
9 grants under sections 226 and 227 to eligible child
10 care providers in selected geographical areas in the
11 State in compliance with the following requirements:

12 (A) SELECTION OF GEOGRAPHICAL
13 AREAS.—For the purpose of making such
14 grants for a fiscal year, the State shall—

15 (i) select a variety of geographical
16 areas, determined by the State, that, col-
17 lectively—

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

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

22 (ii) give special consideration to geo-
23 graphical areas selected under this sub-
24 paragraph for the preceding fiscal year.

1 (B) SELECTION OF CHILD CARE PRO-
2 VIDERS TO RECEIVE GRANTS.—In making
3 grants under section 226, the State may make
4 grants only to eligible child care providers in
5 geographical areas selected under subparagraph
6 (A), but may give special consideration in such
7 areas to eligible child care providers—

8 (i) who have attained a higher rel-
9 evant educational credential;

10 (ii) who provide a specific kind of
11 child care services;

12 (iii) who provide child care services to
13 populations who meet specific economic
14 characteristics; or

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

17 (C) LIMITATION.—The State shall describe
18 how the State will ensure that grants made
19 under section 226 to child care providers will
20 not be used to offset reductions in the com-
21 pensation of such providers.

22 (D) REPORTING REQUIREMENT.—With re-
23 spect to each particular geographical area se-
24 lected under subparagraph (A), the State shall
25 provide an assurance that the State will, for

1 each fiscal year for which such State receives a
2 grant under section 226—

3 (i) include in the report required by
4 section 229, detailed information regard-
5 ing—

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

9 (II) with respect to each em-
10 ployer that employed such a grant re-
11 cipient, whether such employer was
12 accredited by a recognized national or
13 State accrediting body during the pe-
14 riod of employment; and

15 (III) to the extent practicable
16 and available to the State, the rate
17 and frequency of employment turnover
18 of qualified child care providers
19 throughout such area,
20 during the 2-year period ending on the
21 deadline for submission of applications for
22 grants under section 226 for that fiscal
23 year; and

24 (ii) provide a follow-up report, not
25 later than 90 days after the end of the suc-

1 ceeding fiscal year that includes informa-
2 tion regarding—

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

6 (II) with respect to each em-
7 ployer that employed such a grant re-
8 cipient, whether such employer was
9 accredited by a recognized national or
10 State accrediting body during the pe-
11 riod of employment; and

12 (III) to the extent practicable
13 and available to the State, detailed in-
14 formation regarding the rate and fre-
15 quency of employment turnover of
16 qualified child care providers through-
17 out such area,

18 during the 1-year period beginning on the
19 date on which the grant to the State was
20 made under section 226.

21 (5) CHILD CARE PROVIDER DEVELOPMENT AND
22 RETENTION GRANT PROGRAM.—The State plan shall
23 describe how the lead agency will determine the
24 amounts of grants to be made under section 226 in
25 accordance with the following requirements:

1 (A) SUFFICIENT AMOUNTS.—The State
2 shall demonstrate that the amounts of indi-
3 vidual grants to be made under section 226 will
4 be sufficient—

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

7 (ii) to retain qualified child care pro-
8 viders in the child care field.

9 (B) AMOUNTS TO CREDENTIALLED PRO-
10 VIDERS.—Such grants made to eligible child
11 care providers who have a child development as-
12 sociate credential (or equivalent) and who are
13 employed full-time to provide child care services
14 shall be in an amount that is not less than
15 \$1,000 per year.

16 (C) AMOUNTS TO PROVIDERS WITH HIGH-
17 ER LEVELS OF EDUCATION.—The State shall
18 make such grants in amounts greater than
19 \$1,000 per year to eligible child care providers
20 who have higher levels of education than the
21 education required for a credential such as a
22 child development associate credential (or equiv-
23 alent), according to the following requirements:

24 (i) PROVIDERS WITH BACCALAUREATE
25 DEGREES IN RELEVANT FIELDS.—An eligi-

1 ble child care provider who has a bacca-
2 laureate degree in the area of child devel-
3 opment or early child education shall re-
4 ceive a grant under section 226 in an
5 amount that is not less than twice the
6 amount of the grant that is made under
7 section 226 to an eligible child care pro-
8 vider who has an associate of the arts de-
9 gree in the area of child development or
10 early child education.

11 (ii) PROVIDERS WITH ASSOCIATE DE-
12 GREES.—An eligible child care provider
13 who has an associate of the arts degree in
14 the area of child development or early child
15 education shall receive a grant under sec-
16 tion 226 in an amount that is not less
17 than 150 percent of the amount of the
18 grant that is made under section 226 to an
19 eligible child care provider who has a child
20 development associate credential (or equiv-
21 alent) and is employed full-time to provide
22 child care services.

23 (iii) OTHER PROVIDERS WITH BACCA-
24 LAUREATE DEGREES.—

1 (I) IN GENERAL.—Except as pro-
2 vided in subclause (II), an eligible
3 child care provider who has a bacca-
4 laureate degree in a field other than
5 child development or early child edu-
6 cation shall receive a grant under sec-
7 tion 226 in an amount equal to the
8 amount of the grant that is made
9 under section 226 to an eligible child
10 care provider who has an associate of
11 the arts degree in the area of child de-
12 velopment or early child education.

13 (II) EXCEPTION.—If an eligible
14 child care provider who has such a
15 baccalaureate degree obtains addi-
16 tional educational training in the area
17 of child development or early child
18 education, as specified by the State,
19 such provider shall receive a grant
20 under section 226 in an amount equal
21 to the amount of the grant that is
22 made under section 226 to an eligible
23 child care provider who has a bacca-
24 laureate degree specified in clause (i).

1 (D) AMOUNTS TO FULL-TIME PRO-
2 VIDERS.—The State shall make a grant under
3 section 226 to an eligible child care provider
4 who works full-time in a greater amount than
5 the amount of the grant that is made under
6 section 226 to an eligible child care provider
7 who works part-time, based on the State defini-
8 tions of full-time and part-time work.

9 (E) AMOUNTS TO EXPERIENCED PRO-
10 VIDERS.—The State shall make grants under
11 section 226 in progressively larger amounts to
12 eligible child care providers to reflect the num-
13 ber of years worked as child care providers.

14 (6) DISTRIBUTION OF CHILD CARE PROVIDER
15 SCHOLARSHIPS.—The State plan shall describe how
16 the lead agency will make grants for scholarships in
17 compliance with section 227 and shall specify the
18 types of educational and training programs for
19 which the scholarship grants made under such sec-
20 tion may be used, including only programs that—

21 (A) are administered by institutions of
22 higher education that are eligible to participate
23 in student financial assistance programs under
24 title IV of the Higher Education Act of 1965
25 (20 U.S.C. 1070 et seq.); and

1 (B) lead to a State or nationally recog-
2 nized credential in the area of child develop-
3 ment or early child education, an associate of
4 the arts degree in the area of child development
5 or early child education, or a baccalaureate de-
6 gree in the area of child development or early
7 child education.

8 (7) EMPLOYER CONTRIBUTION.—The State
9 plan shall describe how the lead agency will encour-
10 age employers of child care providers to contribute
11 to the attainment of education goals by eligible child
12 care providers who receive grants under section 227.

13 (8) SUPPLEMENTATION.—The State plan shall
14 provide assurances that amounts received by the
15 State to carry out sections 226, 227, and 228 will
16 be used only to supplement, and not to supplant,
17 Federal, State, and local funds otherwise available to
18 support existing services and activities (as of the
19 date the amounts are used) that—

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

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

1 **SEC. 226. CHILD CARE PROVIDER DEVELOPMENT AND RE-**
2 **TENTION GRANT PROGRAM.**

3 (a) IN GENERAL.—A State that receives funds allot-
4 ted under section 224 and made available to carry out this
5 section shall expend such funds to pay for the Federal
6 share of the cost of making grants to eligible child care
7 providers in accordance with this section, to improve the
8 qualifications and promote the retention of qualified child
9 care providers.

10 (b) ELIGIBILITY TO RECEIVE GRANTS.—To be eligi-
11 ble to receive a grant under this section, a child care pro-
12 vider shall—

13 (1) have a child development associate creden-
14 tial (or equivalent), an associate of the arts degree
15 in the area of child development or early child edu-
16 cation, a baccalaureate degree in the area of child
17 development or early child education, or a bacca-
18 laureate degree in an unrelated field; and

19 (2) be employed as a child care provider for not
20 less than 1 calendar year, or (if the provider is em-
21 ployed on the date of the eligibility determination in
22 a child care program that operates for less than a
23 full calendar year) the program equivalent of 1 cal-
24 endar year, ending on the date of the application for
25 such grant, except that not more than 3 months of
26 education related to child development or to early

1 child education obtained during the corresponding
2 calendar year may be treated as employment that
3 satisfies the requirements of this paragraph.

4 (c) PRESERVATION OF ELIGIBILITY.—A State shall
5 not take into consideration whether a child care provider
6 is receiving, may receive, or may be eligible to receive any
7 funds or benefits under any other provision of this subtitle
8 for purposes of selecting eligible child care providers to
9 receive grants under this section.

10 **SEC. 227. CHILD CARE PROVIDER SCHOLARSHIP PROGRAM.**

11 (a) IN GENERAL.—A State that receives funds allot-
12 ted under section 224 and made available to carry out this
13 section shall expend such funds to pay for the Federal
14 share of the cost of making scholarship grants to eligible
15 child care providers in accordance with this section, to im-
16 prove their educational qualifications to provide child care
17 services.

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

1 1 calendar year, ending on the date of the application for
2 such grant.

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

7 (1) take into consideration whether a child care
8 provider is receiving, may receive, or may be eligible
9 to receive any funds or benefits under any other pro-
10 vision of this subtitle, or under any other Federal or
11 State law that provides funds for educational pur-
12 poses; or

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

19 (d) COST-SHARING REQUIRED.—The amount of a
20 scholarship grant made under this section to an eligible
21 child care provider shall be less than the cost of the edu-
22 cational or training program for which such grant is made.

23 (e) ANNUAL MAXIMUM SCHOLARSHIP GRANT
24 AMOUNT.—The maximum aggregate dollar amount of a

1 scholarship grant made by a State to an eligible child care
2 provider under this section in a fiscal year shall be \$1,500.

3 **SEC. 228. CHILD CARE PROVIDER HEALTH BENEFITS COV-**
4 **ERAGE.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Healthy Early Education Workforce Grant Program
7 Act”.

8 (b) **DEFINITION.**—In this section, the terms “depend-
9 ent”, “domestic partner”, and “spouse”, used with respect
10 to a State, have the meanings given the terms by the
11 State.

12 (c) **GENERAL AUTHORITY.**—A State that receives
13 funds allotted under section 224 and made available to
14 carry out this section shall expend such funds to pay for
15 the Federal share of the cost of providing access to afford-
16 able health benefits coverage for—

17 (1) eligible child care providers; and

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

21 (d) **PERMISSIBLE ACTIVITIES.**—In carrying out sub-
22 section (c), the State may expend such funds for any of
23 the following:

24 (1) To reimburse an employer of an eligible
25 child care provider, or the provider, for the employ-

1 er's or provider's share (or a portion of the share)
2 of the premiums or other costs for coverage under
3 group or individual health plans.

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

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

13 (e) ELIGIBILITY CRITERIA FOR HEALTH BENEFITS
14 COVERAGE.—The State may establish criteria to limit the
15 child care providers who may receive benefits through the
16 allotment.

17 (f) SELECTION OF GRANTEES.—For purposes of se-
18 lecting eligible child care providers to receive benefits
19 under this section for a fiscal year, a State shall give—

20 (1) highest priority to—

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

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

4 (2) second highest priority to—

5 (A) providers that meet any applicable cri-
6 teria established in accordance with subsection
7 (e) and are accredited by the National Associa-
8 tion for the Education of Young Children or the
9 National Association for Family Child Care;
10 and

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

14 **SEC. 229. ANNUAL REPORT.**

15 A State that receives funds appropriated to carry out
16 this subtitle for a fiscal year shall submit to the Secretary,
17 not later than 90 days after the end of such fiscal year,
18 a report—

19 (1) specifying the uses for which the State ex-
20 pended such funds, and the aggregate amount of
21 funds (including State funds) expended for each of
22 such uses; and

23 (2) containing available data relating to grants
24 made and benefits provided with such funds, includ-
25 ing—

1 (A) the number of eligible child care pro-
2 viders who received such grants and benefits;

3 (B) the amounts of such grants and bene-
4 fits;

5 (C) any other information that describes or
6 evaluates the effectiveness of this subtitle;

7 (D) the particular geographical areas se-
8 lected under section 225 for the purpose of
9 making such grants;

10 (E) with respect to grants made under sec-
11 tion 226—

12 (i) the number of years grant recipi-
13 ents have been employed as child care pro-
14 viders;

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

17 (iii) to the extent practicable and
18 available to the State, detailed information
19 regarding the salaries and other compensa-
20 tion received by grant recipients to provide
21 child care services before, during, and after
22 receiving such grants;

23 (iv) the number of children who re-
24 ceived child care services provided by grant
25 recipients;

1 (v) information on family demo-
2 graphics of such children;

3 (vi) the types of settings described in
4 subparagraphs (A), (B), and (C) of section
5 222(1) in which grant recipients are em-
6 ployed; and

7 (vii) the ages of the children who re-
8 ceived child care services provided by grant
9 recipients;

10 (F) with respect to grants made under sec-
11 tion 227—

12 (i) the number of years grant recipi-
13 ents have been employed as child care pro-
14 viders;

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

17 (iii) to the extent practicable and
18 available to the State, detailed information
19 regarding the salaries and other compensa-
20 tion received by grant recipients to provide
21 child care services before, during, and after
22 receiving such grants;

23 (iv) the types of settings described in
24 subparagraphs (A), (B), and (C) of section

1 222(1) in which grant recipients are em-
2 ployed;

3 (v) the ages of the children who re-
4 ceived child care services provided by grant
5 recipients;

6 (vi) the number of course credits or
7 credentials obtained by grant recipients;
8 and

9 (vii) the amount of time taken for
10 completion of the educational and training
11 programs for which such grants were
12 made; and

13 (G) such other information as the Sec-
14 retary may require by rule.

15 **SEC. 230. EVALUATION OF HEALTH BENEFITS PROGRAMS**

16 **BY SECRETARY.**

17 (a) **EVALUATION.**—The Secretary shall conduct an
18 evaluation of several State programs carried out with
19 grants made under section 228, representing various ap-
20 proaches to raising the rate of child care providers with
21 health benefits coverage.

22 (b) **ASSESSMENT OF IMPACTS.**—In evaluating State
23 programs under subsection (a), the Secretary may con-
24 sider any information appropriate to measure the success

1 of the programs, and shall assess the impact of the pro-
2 grams on the following:

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

5 (2) The take-up rate by eligible child care pro-
6 viders.

7 (3) The turnover rate in the child care field.

8 (4) The average wages paid to a child care pro-
9 vider.

10 (c) REPORT.—Not later than 3 years after the date
11 of enactment of this subtitle, the Secretary shall prepare
12 and submit a report to Congress containing the results
13 of the evaluation conducted under subsection (a), together
14 with recommendations for strengthening programs carried
15 out with grants made under section 228.

16 **SEC. 231. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) CHILD CARE PROVIDER DEVELOPMENT, RETEN-
18 TION, AND SCHOLARSHIPS.—There are authorized to be
19 appropriated to carry out the activities described in sec-
20 tions 226 and 227 \$500,000,000 for fiscal year 2008 and
21 such sums as may be necessary for each of fiscal years
22 2008 through 2012.

23 (b) CHILD CARE PROVIDER HEALTH BENEFITS COV-
24 ERAGE.—There is authorized to be appropriated to carry
25 out the activities described in section 228 \$200,000,000

1 for fiscal year 2007 and such sums as may be necessary
2 for each of fiscal years 2008 through 2012.

3 **Subtitle D—Child Care Facilities**
4 **Financing**

5 **SEC. 241. SHORT TITLE.**

6 This subtitle may be cited as the “Child Care Facili-
7 ties Financing Act of 2009”.

8 **SEC. 242. TECHNICAL AND FINANCIAL ASSISTANCE**
9 **GRANTS.**

10 (a) GRANT AUTHORITY.—The Secretary may make
11 grants on a competitive basis to eligible entities in accord-
12 ance with this section.

13 (b) APPLICATION.—

14 (1) IN GENERAL.—To be eligible to receive a
15 grant under subsection (a), an eligible entity shall
16 submit to the Secretary an application at such time,
17 in such form, and containing such information as
18 the Secretary may require by rule.

19 (2) REQUIREMENTS.—The Secretary shall issue
20 rules that take into account the experience and suc-
21 cess of eligible entities in attracting private financ-
22 ing and carrying out the types of activities for which
23 grants under subsection (a) are made.

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

1 (1) that has demonstrated experience—

2 (A) providing technical or financial assist-
3 ance for the acquisition, construction, or ren-
4 ovation of child care facilities;

5 (B) providing technical, financial, or mana-
6 gerial assistance to eligible child care providers;
7 and

8 (C) securing private sources of capital fi-
9 nancing for child care or other low-income com-
10 munity development; and

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

13 (A) low-income areas, including—

14 (i) a community that—

15 (I) is in a metropolitan area; and

16 (II) has a median household in-
17 come that is not more than 80 percent
18 of the median household income of the
19 metropolitan area; or

20 (ii) a community that—

21 (I) is not in a metropolitan area;

22 and

23 (II) has a median income that is
24 not more than 80 percent of the me-

1 dian household income of the State in
2 which the community is located; or

3 (B) low-income individuals, including eligi-
4 ble children.

5 (d) USE OF FUNDS.—

6 (1) CAPITAL FUND.—Each eligible entity that
7 receives a grant under subsection (a) shall deposit
8 the grant amount into a child care capital fund es-
9 tablished by the eligible entity.

10 (2) PAYMENTS FROM FUNDS.—Each eligible en-
11 tity shall provide technical or financial assistance (in
12 the form of loans, grants, investments, guarantees,
13 interest subsidies, and other appropriate forms of
14 assistance) to eligible recipients from the child care
15 capital fund it establishes to pay for—

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

18 (B) equipment for child care facilities; or

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

22 (3) LOAN REPAYMENTS AND INVESTMENT PRO-
23 CEEDS.—An eligible entity that receives a loan re-
24 payment or investment proceeds from an eligible re-
25 cipient shall deposit such repayment or proceeds into

1 the child care capital fund of the eligible entity for
2 use in accordance with this section.

3 (4) APPLICATION.—To obtain assistance from
4 an eligible entity, an eligible recipient shall prepare
5 and submit an application to an eligible entity at
6 such time, in such form, and containing such infor-
7 mation as the eligible entity may require.

8 **SEC. 243. DEFINITIONS.**

9 As used in this subtitle:

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

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

16 (3) COMMUNITY DEVELOPMENT FINANCIAL IN-
17 STITUTION.—The term “community development fi-
18 nancial institution” has the meaning given such
19 term in section 103(5) of the Community Develop-
20 ment Banking and Financial Institutions Act of
21 1994 (12 U.S.C. 4702(5)).

22 (4) ELIGIBLE CHILD CARE PROVIDER.—The
23 term “eligible child care provider” has the meaning
24 given such term in section 658P of the Child Care

1 and Development Block Grant Act of 1990 (42
2 U.S.C. 9858n).

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

7 (6) ELIGIBLE ENTITY.—The term “eligible enti-
8 ty” means—

9 (A) a community development financial in-
10 stitution certified by the Department of Treas-
11 ury; or

12 (B) an organization that—

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

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

17 (iii) has demonstrated experience in—

18 (I) providing technical or finan-
19 cial assistance for the acquisition, con-
20 struction, or renovation of child care
21 facilities;

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

1 (III) securing private sources of
2 capital financing for child care or
3 other low-income community develop-
4 ment.

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

7 (A) an eligible child care provider that pro-
8 vides child care services to an eligible child;

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

11 (C) an organization providing or seeking to
12 provide child care services to low-income chil-
13 dren as determined by the Secretary.

14 (8) EQUIPMENT.—The term “equipment” in-
15 cludes—

16 (A) machinery, utilities, and built-in equip-
17 ment, and any necessary structure to house
18 them; and

19 (B) any other items necessary for the func-
20 tioning of a child care facility, including fur-
21 niture, books, and program materials.

22 (9) METROPOLITAN AREA.—The term “metro-
23 politan area” has the meaning given such term in
24 section 102 of the Housing and Community Devel-
25 opment Act of 1974 (42 U.S.C. 5302).

1 (10) SECRETARY.—The term “Secretary”
2 means the Secretary of Health and Human Services.

3 **SEC. 244. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to carry out
5 this subtitle \$50,000,000 for each of the fiscal years 2010
6 through 2014.

7 **Subtitle E—Business Child Care**
8 **Incentive Grant Program**

9 **SEC. 251. BUSINESS CHILD CARE INCENTIVE GRANT PRO-**
10 **GRAM.**

11 (a) ESTABLISHMENT.—The Secretary of Health and
12 Human Services (referred to in this section as the “Sec-
13 retary”) shall establish a program to award grants to
14 States, on a competitive basis, to assist States in providing
15 funds to encourage the establishment and operation of em-
16 ployer operated child care programs.

17 (b) APPLICATION.—To be eligible to receive a grant
18 under this section, a State shall prepare and submit to
19 the Secretary an application at such time, in such manner,
20 and containing such information as the Secretary may re-
21 quire, including an assurance that the funds required
22 under subsection (e) will be provided.

23 (c) AMOUNT OF GRANT.—The Secretary shall deter-
24 mine the amount of a grant to a State under this section
25 based on the population of children less than 5 years of

1 age in the State as compared to the population of all
2 States receiving grants under this section.

3 (d) USE OF FUNDS.—

4 (1) IN GENERAL.—A State shall use amounts
5 provided under a grant awarded under this section
6 to provide assistance to businesses located in the
7 State to enable the businesses to establish and oper-
8 ate child care programs. Such assistance may in-
9 clude—

10 (A) technical assistance in the establish-
11 ment of a child care program;

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

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

16 (D) scholarships for low-income wage earn-
17 ers;

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

21 (F) the entering into of contracts with
22 local resource and referral or local health de-
23 partments;

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

1 (H) assistance for any other activity deter-
2 mined appropriate by the State.

3 (2) APPLICATION.—To be eligible to receive as-
4 sistance from a State under this section, a business
5 shall prepare and submit to the State an application
6 at such time, in such manner, and containing such
7 information as the State may require.

8 (3) PREFERENCE.—

9 (A) IN GENERAL.—In providing assistance
10 under this section, a State shall give priority to
11 applicants that desire to form a consortium to
12 provide child care in a geographic area within
13 the State where such care is not generally avail-
14 able or accessible.

15 (B) CONSORTIUM.—For purposes of sub-
16 paragraph (A), a consortium shall be made up
17 of 2 or more entities that may include busi-
18 nesses, nonprofit agencies or organizations,
19 local governments, or other appropriate entities.

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

24 (e) MATCHING REQUIREMENT.—To be eligible to re-
25 ceive a grant under this section a State shall provide as-

1 surances to the Secretary that, with respect to the costs
2 to be incurred by an entity receiving assistance in carrying
3 out activities under this section, the entity will make avail-
4 able (directly or through donations from public or private
5 entities) non-Federal contributions to such costs in an
6 amount equal to—

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

11 (2) for the second fiscal year in which the enti-
12 ty receives such assistance, not less than $66\frac{2}{3}$ per-
13 cent of such costs (\$2 for each \$1 of assistance pro-
14 vided to the entity under the grant); and

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

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

25 (g) ADMINISTRATION.—

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

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

11 (3) MISUSE OF FUNDS.—

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

21 (B) APPEALS PROCESS.—The Secretary
22 shall by regulation provide for an appeals proc-
23 ess with respect to repayments under this para-
24 graph.

25 (h) REPORTING REQUIREMENTS.—

1 (1) 2-YEAR STUDY.—

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

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

9 (ii) the kinds of partnerships that are
10 being formed with respect to child care at
11 the local level to carry out programs fund-
12 ed under this section; and

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

16 (B) REPORT.—Not later than 28 months
17 after the date on which the Secretary first
18 awards grants under this section, the Secretary
19 shall prepare and submit to the appropriate
20 committees of Congress a report on the results
21 of the study conducted in accordance with sub-
22 paragraph (A).

23 (2) 4-YEAR STUDY.—

24 (A) IN GENERAL.—Not later than 4 years
25 after the date on which the Secretary first

1 awards grants under this section, the Secretary
2 shall conduct a study to determine the number
3 of child care facilities funded through entities
4 that received assistance through a grant award-
5 ed under this section that remain in operation
6 and the extent to which such facilities are meet-
7 ing the child care needs of the individuals
8 served by such facilities.

9 (B) REPORT.—Not later than 52 months
10 after the date on which the Secretary first
11 awards grants under this section, the Secretary
12 shall prepare and submit to the appropriate
13 committees of Congress a report on the results
14 of the study conducted in accordance with sub-
15 paragraph (A).

16 (i) DEFINITION.—In this section, the term “busi-
17 ness” means an employer who employed an average of at
18 least 2 employees on business days during the preceding
19 calendar year.

20 (j) AUTHORIZATION OF APPROPRIATIONS.—

21 (1) IN GENERAL.—There is authorized to be
22 appropriated to carry out this section, \$60,000,000
23 for the period of fiscal years 2008 through 2010.

24 (2) EVALUATIONS AND ADMINISTRATION.—

25 With respect to the total amount appropriated for

1 such period in accordance with this subsection, not
2 more than \$5,000,000 of that amount may be used
3 for expenditures related to conducting evaluations
4 required under, and the administration of, this sec-
5 tion.

6 (k) TERMINATION OF PROGRAM.—The program es-
7 tablished under subsection (a) shall terminate on Sep-
8 tember 30, 2011.

9 **TITLE III—PRE-SCHOOL, IN-**
10 **SCHOOL, AND AFTER SCHOOL**
11 **ASSISTANCE**

12 **Subtitle A—Universal**
13 **Prekindergarten Act**

14 **SEC. 301. SHORT TITLE.**

15 This subtitle may be cited as the “Universal Pre-
16 kindergarten Act”.

17 **SEC. 302. PURPOSE.**

18 The purpose of this subtitle is to ensure that all chil-
19 dren 3, 4, and 5 years old have access to a high-quality
20 full-day, full-calendar-year prekindergarten program by
21 providing grants to States to assist in developing a uni-
22 versal prekindergarten program that is voluntary and free-
23 of-charge.

1 **SEC. 303. PREKINDERGARTEN GRANT PROGRAM AUTHOR-**
2 **IZATION.**

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

10 **SEC. 304. STATE REQUIREMENTS.**

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

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

20 (1) How the designated State agency, in over-
21 seeing the State’s universal prekindergarten pro-
22 gram, will coordinate with other State agencies re-
23 sponsible for early childhood education and health
24 programs.

1 (2) A State plan to establish and implement a
2 statewide universal prekindergarten program, in ac-
3 cordance with subsection (c).

4 (c) STATE PLAN.—The State plan required under
5 subsection (b)(2) shall include each of the following:

6 (1) A description of the universal prekinde-
7 rgarten program that will be established and how it
8 will support children’s cognitive, social, emotional,
9 and physical development.

10 (2) A statement of the goals for universal pre-
11 kindergarten programs and how program outcomes
12 will be measured.

13 (3) A description of—

14 (A) how funding will be distributed to eli-
15 gible prekindergarten program providers based
16 on the need for early childhood education in
17 each geographical area served by such pro-
18 viders; and

19 (B) how the designated State agency will
20 involve representatives of early childhood pro-
21 gram providers (including child care providers,
22 Head Start programs, and State and local
23 agencies) that sponsor programs addressing
24 children 3, 4, and 5 years old.

1 (4) A description of how the designated State
2 agency will coordinate with existing State-funded
3 prekindergarten programs, federally funded pro-
4 grams (such as Head Start programs), public school
5 programs, and child care providers.

6 (5) A description of how an eligible prekinde-
7 rgarten program provider may apply to the des-
8 ignated State agency for funding under this Act.

9 (6) A plan to address the shortages of qualified
10 early childhood education teachers, including how to
11 increase such teachers' compensation to be com-
12 parable to that of public school teachers.

13 (7) How the designated State agency will pro-
14 vide ongoing professional development opportunities
15 to help increase the number of teachers in early
16 childhood programs who meet the State's education
17 or credential requirements for prekindergarten
18 teachers.

19 (8) A plan to address how the universal pre-
20 kindergarten program will meet the needs of chil-
21 dren with disabilities, limited English proficiency,
22 and other special needs.

23 (9) A plan to provide transportation to children
24 to and from the universal prekindergarten program.

1 (10) A description of how the State will provide
2 the 20 percent match of Federal funds.

3 (d) ADMINISTRATION.—A designated State agency
4 may not use more than 5 percent of a grant under this
5 subtitle for costs associated with State administration of
6 the program under this subtitle.

7 **SEC. 305. LOCAL REQUIREMENTS.**

8 (a) IN GENERAL.—An eligible prekindergarten pro-
9 gram provider receiving funding under this subtitle
10 shall—

11 (1) maintain a maximum class size of 20 chil-
12 dren;

13 (2) maintain a ratio of not more than 10 chil-
14 dren for each member of the teaching staff;

15 (3)(A) ensure that all prekindergarten teachers
16 meet the requirements for teachers at a State-fund-
17 ed prekindergarten program under an applicable
18 State law; and

19 (B) document that the State is demonstrating
20 significant progress in assisting prekindergarten
21 teachers on working toward a bachelor of arts de-
22 gree with training in early childhood development or
23 early childhood education;

1 (4)(A) be accredited by a national organization
2 with demonstrated experience in accrediting pre-
3 kindergarten programs; or

4 (B) provide assurances that it shall obtain such
5 accreditation not later than 3 years after first re-
6 ceiving funding under this subtitle; and

7 (5) meet applicable State and local child care li-
8 censing health and safety standards.

9 (b) LOCAL APPLICATION.—Eligible prekindergarten
10 program providers desiring to receive funding under this
11 subtitle shall submit an application to the designated
12 State agency overseeing funds under this subtitle con-
13 taining the following:

14 (1) A description of the prekindergarten pro-
15 gram.

16 (2) A statement of the demonstrated need for
17 a program, or an enhanced or expanded program, in
18 the area served by the eligible prekindergarten pro-
19 gram provider.

20 (3) A description of the age-appropriate and de-
21 velopmentally appropriate educational curriculum to
22 be provided that will help children be ready for
23 school and assist them in the transition to kinder-
24 garten.

1 (4) A description of how the eligible prekindergarten
2 program provider will collaborate with exist-
3 ing community-based child care providers and Head
4 Start programs.

5 (5) A description of how students and families
6 will be assisted in obtaining supportive services
7 available in their communities.

8 (6) A plan to promote parental involvement in
9 the prekindergarten program.

10 (7) A description of how teachers will receive
11 ongoing professional development in early childhood
12 development and education.

13 (8) An assurance that prekindergarten pro-
14 grams receiving funds under this subtitle provide the
15 data required in section 7(c).

16 **SEC. 306. PROFESSIONAL DEVELOPMENT SET-ASIDE.**

17 (a) **IN GENERAL.**—A designated State agency may
18 set aside up to 5 percent of a grant under this subtitle
19 for ongoing professional development activities for teach-
20 ers and staff at prekindergarten programs that wish to
21 participate in the universal prekindergarten grant pro-
22 gram under this subtitle. A designated State agency using
23 the set-aside for professional development must include in
24 its application the following:

1 (1) A description of how the designated State
2 agency will ensure that eligible prekindergarten pro-
3 gram providers in a range of settings (including
4 child care providers, Head Start programs, and
5 schools) will participate in the professional develop-
6 ment programs.

7 (2) An assurance that, in developing its applica-
8 tion and in carrying out its program, the profes-
9 sional development provider has consulted, and will
10 consult, with relevant agencies, early childhood orga-
11 nizations, early childhood education experts, and
12 early childhood program providers.

13 (3) A description of how the designated State
14 agency will ensure that the professional development
15 is ongoing and accessible to educators in all geo-
16 graphic areas of the State, including by the use of
17 advanced educational technologies.

18 (4) A description of how the designated State
19 agency will ensure that such set-aside funds will be
20 used to pay the cost of additional education and
21 training.

22 (5) A description of how the designated State
23 agency will work with other agencies and institutions
24 of higher education to provide scholarships and
25 other financial assistance to prekindergarten staff.

1 (6) A description of how the State educational
2 agency will provide a financial incentive, such as a
3 financial stipend or a bonus, to educators who par-
4 ticipate in and complete such professional develop-
5 ment.

6 (7) A description of how the professional devel-
7 opment activities will be carried out, including the
8 following:

9 (A) How programs and educators will be
10 selected to participate.

11 (B) How professional development pro-
12 viders will be selected, based on demonstrated
13 experience in providing research-based profes-
14 sional development to early childhood educators.

15 (C) The types of research-based profes-
16 sional development activities that will be carried
17 out in all domains of children's physical, cog-
18 nitive, social, and emotional development and
19 on early childhood pedagogy.

20 (D) How the program will train early
21 childhood educators to meet the diverse edu-
22 cational needs of children in the community, es-
23 pecially children who have limited English pro-
24 ficiency, disabilities, and other special needs.

1 (E) How the program will coordinate with
2 and build upon, but not supplant or duplicate,
3 early childhood education professional develop-
4 ment activities that exist in the community.

5 (b) USES OF FUNDS.—Funds set aside under this
6 section may be used for ongoing professional develop-
7 ment—

8 (1) to provide prekindergarten teachers and
9 staff with the knowledge and skills for the applica-
10 tion of recent research on child cognitive, social,
11 emotional, and physical development, including lan-
12 guage and literacy development, and on early child-
13 hood pedagogy;

14 (2) to provide the cost of education needed to
15 obtain a credential or degree with specific training
16 in early childhood development or education;

17 (3) to work with children who have limited
18 English proficiency, disabilities, and other special
19 needs; and

20 (4) to select and use developmentally appro-
21 priate screening and diagnostic assessments to im-
22 prove teaching and learning and make appropriate
23 referrals for services to support prekindergarten
24 children’s development and learning.

1 **SEC. 307. REPORTING.**

2 (a) **REPORT BY SECRETARY.**—For each year in which
3 funding is provided under this subtitle, the Secretary of
4 Health and Human Services shall submit an annual report
5 to the Congress on the implementation and effectiveness
6 of the universal prekindergarten program under this sub-
7 title.

8 (b) **REPORT BY DESIGNATED STATE AGENCY.**—Each
9 designated State agency that provides grants to eligible
10 prekindergarten program providers under this subtitle
11 shall submit to the Secretary an annual report on the im-
12 plementation and effectiveness of the programs in the
13 State supported under this subtitle. Such report shall con-
14 tain such additional information as the Secretary may rea-
15 sonably require.

16 (c) **REPORT BY GRANT RECIPIENT.**—Each eligible
17 prekindergarten program provider that receives a grant
18 under this subtitle shall submit to the designated State
19 agency an annual report that includes, with respect to the
20 program supported by such grant, the following:

21 (1) A description of the type of program and a
22 statement of the number and ages of children served
23 by the program, as well as the number and ages of
24 children with a disability or a native language other
25 than English.

1 (2) A description of the qualifications of the
2 program staff and the type of ongoing professional
3 development provided to such staff.

4 (3) A statement of all sources of Federal, State,
5 local, and private funds received by the program.

6 (4) A description of the curricula, materials,
7 and activities used by the program to support early
8 childhood development and learning.

9 (5) Such other information as the designated
10 State agency may reasonably require.

11 **SEC. 308. FEDERAL FUNDS SUPPLEMENTARY.**

12 Funds made available under this subtitle may not be
13 used to supplant other Federal, State, local, or private
14 funds that would, in the absence of such Federal funds,
15 be made available for the program assisted under this sub-
16 title.

17 **SEC. 309. DEFINITIONS.**

18 In this subtitle:

19 (1) The term “eligible prekindergarten program
20 provider” means a prekindergarten program pro-
21 vider that is—

22 (A) a school;

23 (B) supported, sponsored, supervised, or
24 carried out by a local educational agency;

25 (C) a Head Start program; or

1 (D) a child care provider.

2 (2) The term “prekindergarten program”
3 means a program serving children 3, 4, and 5 years
4 old that supports children’s cognitive, social, emo-
5 tional, and physical development and helps prepare
6 those children for the transition to kindergarten.

7 (3) The term “local educational agency” has
8 the meaning given that term in the Elementary and
9 Secondary Education Act of 1965 (20 U.S.C. 6301
10 et seq.).

11 (4) The term “prekindergarten teacher” means
12 an individual who has received, or is working to-
13 ward, a bachelor of arts degree in early childhood
14 education.

15 **SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to carry out
17 this subtitle—

18 (1) \$10,000,000,000 for fiscal year 2009;

19 (2) \$20,000,000,000 for fiscal year 2010;

20 (3) \$30,000,000,000 for fiscal year 2011;

21 (4) \$40,000,000,000 for fiscal year 2012; and

22 (5) \$50,000,000,000 for fiscal year 2013.

1 **Subtitle B—Universal Free School**
2 **Breakfast Program**

3 **SEC. 311. UNIVERSAL FREE SCHOOL BREAKFAST PRO-**
4 **GRAM.**

5 (a) FREE BREAKFAST AND UNIVERSAL ELIGI-
6 BILITY.—Section 4 of the Child Nutrition Act of 1966 (42
7 U.S.C. 1773) is amended to read as follows:

8 **“SEC. 4. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.**

9 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as are nec-
11 essary to enable the Secretary to carry out a program to
12 assist States and the Department of Defense to initiate,
13 maintain, or expand nonprofit breakfast programs to pro-
14 vide free breakfasts to school children without regard to
15 family income in all schools which make application for
16 participation and agree to carry out a nonprofit free
17 breakfast program in accordance with this Act. Appropria-
18 tions and expenditures for this Act shall be considered
19 Health and Human Services functions for budget purposes
20 rather than functions of Agriculture.

21 “(b) APPORTIONMENT TO STATES.—

22 “(1)(A) IN GENERAL.—The Secretary shall
23 make breakfast payments to each State educational
24 agency each fiscal year, at such times as the Sec-
25 retary may determine, from the sums appropriated

1 for such purpose, in an amount equal to the product
2 obtained by multiplying—

3 “(i) the number of breakfasts served free
4 during such fiscal year to children in schools in
5 such States which participate in the school
6 breakfast program under agreements with such
7 State educational agency; by

8 “(ii) the national breakfast payment as
9 prescribed in paragraph (2) of this subsection.

10 “(B) AGREEMENTS.—The agreements described
11 in subparagraph (A)(i) shall be permanent agree-
12 ments that may be amended as necessary. Nothing
13 in the preceding sentence shall be construed to limit
14 the ability of the State educational agency to sus-
15 pend or terminate any such agreement in accordance
16 with regulations prescribed by the Secretary.

17 “(2) NATIONAL BREAKFAST PAYMENT.—The
18 national payment for each breakfast shall be \$1.40
19 (as adjusted each July 1 pursuant to section
20 11(a)(3)(B) of the Richard B. Russell National
21 School Lunch Act (42 U.S.C. 1759a(a)(3)(B))).

22 “(3) LIMITATION.—No breakfast payment may
23 be made under this subsection for any breakfast
24 served by a school unless such breakfast consists of
25 a combination of foods which meet the minimum nu-

1 tritional requirements prescribed by the Secretary
2 under subsection (e) of this section.

3 “(4) NUTRITION QUALITY ADJUSTMENT.—The
4 Secretary shall increase by 6 cents the annually ad-
5 justed payment for each breakfast served under this
6 Act and section 17 of the Richard B. Russell Na-
7 tional School Lunch Act. These funds shall be used
8 to assist States, to the extent feasible, in improving
9 the nutritional quality of the breakfasts.

10 “(5) AGRICULTURAL COMMODITIES.—Notwith-
11 standing any other provision of law, whenever stocks
12 of agricultural commodities are acquired by the Sec-
13 retary or the Commodity Credit Corporation and are
14 not likely to be sold by the Secretary or the Com-
15 modity Credit Corporation or otherwise used in pro-
16 grams of commodity sale or distribution, the Sec-
17 retary shall make such commodities available to
18 school food authorities and eligible institutions serv-
19 ing breakfasts under this Act in a quantity equal in
20 value to not less than 3 cents for each breakfast
21 served under this Act.

22 “(6) EFFECT ON EXPENDITURES.—Expendi-
23 tures of funds from State and local sources for the
24 maintenance of the breakfast program shall not be

1 diminished as a result of funds or commodities re-
2 ceived under paragraph (4) or (5).

3 “(c) STATE DISBURSEMENT TO SCHOOLS.—Funds
4 paid to any State during any fiscal year for the purpose
5 of this section shall be disbursed by the State educational
6 agency, in accordance with such agreements approved by
7 the Secretary as may be entered into by such State agency
8 and the schools in the State, to those schools in the State
9 which the State educational agency, determines are eligi-
10 ble to participate in the school breakfast program.

11 “(d) PARTICIPATION BY SCHOOLS.—

12 “(1) REQUIREMENTS FOR PARTICIPATION.—To
13 be eligible to participate in the school breakfast pro-
14 gram under this section, a school food authority
15 shall—

16 “(A) agree to serve all breakfasts at no
17 charge to all students who wish to participate
18 without regard to family income in all partici-
19 pating schools; and

20 “(B) meet all other requirements that the
21 Secretary may reasonably establish.

22 “(2) START-UP ASSISTANCE.—The Secretary is
23 authorized to provide additional assistance to schools
24 not participating in the school breakfast program
25 prior to the enactment of the Family and Workplace

1 Balancing Act of 2009 in order to assist such
2 schools to begin participation in the school breakfast
3 program under this section.

4 “(3) STATE EDUCATIONAL AGENCY ASSIST-
5 ANCE.—Each State educational agency shall assist
6 schools not participating in the school breakfast pro-
7 gram prior to the enactment of the Family and
8 Workplace Balancing Act of 2009 to enter into
9 agreements with such agencies in order to partici-
10 pate in the school breakfast program under this sec-
11 tion.

12 “(e) NUTRITIONAL AND OTHER PROGRAM REQUIRE-
13 MENTS.—

14 “(1) MINIMUM NUTRITIONAL REQUIRE-
15 MENTS.—Breakfasts served by schools participating
16 in the school breakfast program under this section
17 shall consist of a combination of foods and shall
18 meet minimum nutritional requirements prescribed
19 by the Secretary on the basis of tested nutritional
20 research, except that the minimum nutritional re-
21 quirements shall be measured by not less than the
22 weekly average of the nutrient content of school
23 breakfasts.

24 “(2) TECHNICAL ASSISTANCE AND TRAINING.—
25 The Secretary shall provide through State edu-

1 cational agencies technical assistance and training,
2 including technical assistance and training in the
3 preparation of foods high in complex carbohydrates
4 and lower-fat versions of foods commonly used in the
5 school breakfast program established under this sec-
6 tion, to schools participating in the school breakfast
7 program to assist the schools in complying with the
8 nutritional requirements prescribed by the Secretary
9 pursuant to paragraph (1) and in providing appro-
10 priate meals to children with medically certified spe-
11 cial dietary needs.

12 “(3) OPTION VERSUS SERVE.—At the option of
13 a local school food authority, a student in a school
14 under the authority that participates in the school
15 breakfast program under this Act may be allowed to
16 refuse not more than one item of a breakfast that
17 the student does not intend to consume. A refusal of
18 an offered food item shall not affect the amount of
19 payments made under this Act to a school for the
20 breakfast.”.

21 (b) TECHNICAL AMENDMENTS.—

22 (1) CHILD NUTRITION ACT OF 1966.—Section
23 20 of the Child Nutrition Act of 1966 (42 U.S.C.
24 1789) is amended by striking subsection (b) and re-

1 designating subsections (c) through (e) as sub-
2 sections (b) through (d), respectively.

3 (2) RICHARD B. RUSSELL NATIONAL SCHOOL
4 LUNCH ACT.—The Richard B. Russell National
5 School Lunch Act is amended—

6 (A) in section 11(a)(1)—

7 (i) in subparagraph (C), by striking
8 “or breakfasts” each place it appears;

9 (ii) in subparagraph (C)(i)(I), by
10 striking “or in the case of a school” and
11 all that follows through “4 successive
12 school years”;

13 (iii) in subparagraph (D)(iii), by strik-
14 ing “, or for free and reduced price lunches
15 and breakfasts,”;

16 (iv) in subparagraph (D)(iv), by strik-
17 ing “or school breakfast”;

18 (v) in subparagraph (E)(i)(I), by
19 striking “or in the case of a school” and
20 all that follows through “4 successive
21 school years”; and

22 (vi) in subparagraph (E)(i)(II)—

23 (I) by striking “or breakfasts”
24 both places it appears; and

1 (II) by striking “or school break-
2 fast”;

3 (B) in section 11(a)(3)(A)—

4 (i) by striking clause (iii); and

5 (ii) by redesignating clause (iv) as
6 clause (iii);

7 (C) in section 13(a)(1)(C), by striking “or
8 breakfasts”;

9 (D) in section 17—

10 (i) in subsection (c), by striking para-
11 graph (2), and redesignating paragraphs
12 (3) through (6) as paragraphs (2) through
13 (5), respectively; and

14 (ii) in subsection (f)(3)(E)(ii)(I), by
15 striking “meals” and inserting “lunches”;
16 and

17 (E) in section 18, by striking subsection
18 (e) and redesignating subsections (f) through
19 (k) as subsections (e) through (j), respectively.

20 **Subtitle C—Free Lunch Eligibility**

21 **SECTION 321. FREE LUNCH ELIGIBILITY.**

22 Section 9(b)(1) of the Richard B. Russell National
23 School Lunch Act (42 U.S.C. 1758(b)(1)) is amended by
24 adding at the end the following:

1 “(C) Notwithstanding any other provision of this Act,
2 a child who is eligible for reduced price lunches for any
3 school year as determined in accordance with the income
4 guidelines set forth in this subsection shall be deemed to
5 be eligible for free lunches for that school year.”

6 **Subtitle D—Child and Adult Care**
7 **Food Program**

8 **SEC. 331. REIMBURSEMENTS FOR AFTERSCHOOL DINNERS.**

9 Section 17(r) of the Richard B. Russell National
10 School Lunch Act (42 U.S.C. 1766(r)) is amended by
11 striking paragraph (5).

12 **Subtitle E—Afterschool Education**
13 **Enhancement Act**

14 **SEC. 341. SHORT TITLE.**

15 This subtitle may be cited as the “Afterschool Edu-
16 cation Enhancement Act”.

17 **SEC. 342. AMENDMENTS REGARDING 21ST CENTURY COM-**
18 **MUNITY LEARNING CENTERS.**

19 Part B of title IV of the Elementary and Secondary
20 Education Act of 1965 (20 U.S.C. 7171 et seq.) is amend-
21 ed—

22 (1) in subsection (a) of section 4203—

23 (A) by striking paragraph (3); and

1 (B) by redesignating paragraphs (4)
2 through (14) as paragraphs (3) through (13),
3 respectively; and
4 (2) in section 4204—

5 (A) in paragraph (2) of subsection (b)—
6 (i) by striking subparagraph (F); and
7 (ii) by redesignating subparagraphs
8 (G) through (N) as subparagraphs (F)
9 through (M), respectively; and

10 (B) by amending paragraph (1) of sub-
11 section (i) to read as follows:

12 “(1) IN GENERAL.—In awarding grants under
13 this part, a State educational agency shall give pri-
14 ority to applications submitted jointly by eligible en-
15 tities consisting of not less than—

16 “(A) 1 local educational agency receiving
17 funds under part A of title I; and

18 “(B) 1 community-based organization or
19 other public or private entity.”.

1 **TITLE IV—IMPROVING THE**
2 **WORKPLACE FOR FAMILIES**
3 **Subtitle A—Part-Time and**
4 **Temporary Workers Benefits**

5 **SEC. 401. TREATMENT OF EMPLOYEES WORKING AT LESS**
6 **THAN FULL-TIME UNDER PARTICIPATION,**
7 **VESTING, AND ACCRUAL RULES GOVERNING**
8 **PENSION PLANS.**

9 (a) PARTICIPATION RULES.—

10 (1) IN GENERAL.—Section 202(a)(3) of the
11 Employee Retirement Income Security Act of 1974
12 (29 U.S.C. 1052(a)(3)) is amended by adding at the
13 end the following new subparagraph:

14 “(E)(i) For purposes of this paragraph, in the case
15 of any employee who, as of the beginning of the 12-month
16 period referred to in subparagraph (A)—

17 “(I) has customarily completed 500 or more
18 hours of service per year but less than 1,000 hours
19 of service per year, or

20 “(II) is employed in a type of position in which
21 employment customarily constitutes 500 or more
22 hours of service per year but less than 1,000 hours
23 of service per year,

24 completion of 500 hours of service within such period shall
25 be treated as completion of 1,000 hours of service.

1 “(ii) For purposes of this subparagraph, the extent
2 to which employment in any type of position customarily
3 constitutes less than 1,000 hours of service per year shall
4 be determined with respect to each pension plan in accord-
5 ance with such regulations as the Secretary may prescribe
6 providing for consideration of facts and circumstances pe-
7 culiar to the work-force constituting the participants in
8 such plan.”.

9 (2) CONFORMING AMENDMENT.—Section
10 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E))
11 is amended by striking “section 202(a)(3)(A)” and
12 inserting “subparagraphs (A) and (E) of section
13 202(a)(3)”.

14 (b) VESTING RULES.—

15 (1) IN GENERAL.—Section 203(b)(2) of such
16 Act (29 U.S.C. 1053(b)(2)) is amended by adding at
17 the end the following new subparagraph:

18 “(E)(i) For purposes of this paragraph, in the case
19 of any employee who, as of the beginning of the period
20 designated by the plan pursuant to subparagraph (A)—

21 “(I) has customarily completed 500 or more
22 hours of service per year but less than 1,000 hours
23 of service per year, or

24 “(II) is employed in a type of position in which
25 employment customarily constitutes 500 or more

1 hours of service per year but less than 1,000 hours
2 of service per year,
3 completion of 500 hours of service within such period shall
4 be treated as completion of 1,000 hours of service.

5 “(ii) For purposes of this subparagraph, the extent
6 to which employment in any type of position customarily
7 constitutes less than 1,000 hours of service per year shall
8 be determined with respect to each pension plan in accord-
9 ance with such regulations as the Secretary may prescribe
10 providing for consideration of facts and circumstances pe-
11 culiar to the work-force constituting the participants in
12 such plan.”.

13 (2) 1-YEAR BREAKS IN SERVICE.—Section
14 203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is
15 amended by adding at the end the following new
16 subparagraph:

17 “(F)(i) For purposes of this paragraph, in the case
18 of any employee who, as of the beginning of the period
19 designated by the plan pursuant to subparagraph (A)—

20 “(I) has customarily completed 500 or more
21 hours of service per year but less than 1,000 hours
22 of service per year, or

23 “(II) is employed in a type of position in which
24 employment customarily constitutes 500 or more

1 hours of service per year but less than 1,000 hours
2 of service per year,
3 completion of 250 hours of service within such period shall
4 be treated as completion of 500 hours of service.

5 “(ii) For purposes of this subparagraph, the extent
6 to which employment in any type of position customarily
7 constitutes less than 1,000 hours of service per year shall
8 be determined with respect to each pension plan in accord-
9 ance with such regulations as the Secretary may prescribe
10 providing for consideration of facts and circumstances pe-
11 culiar to the work-force constituting the participants in
12 such plan.”.

13 (c) ACCRUAL RULES.—Section 204(b)(4)(C) of such
14 Act (29 U.S.C. 1054(b)(4)(C)) is amended—

15 (1) by inserting “(i)” after “(C)”; and

16 (2) by adding at the end the following new
17 clauses:

18 “(ii) For purposes of this subparagraph, in the case
19 of any employee who, as of the beginning of the period
20 designated by the plan pursuant to clause (i)—

21 “(I) has customarily completed 500 or more
22 hours of service per year but less than 1,000 hours
23 of service per year, or

24 “(II) is employed in a type of position in which
25 employment customarily constitutes 500 or more

1 hours of service per year but less than 1,000 hours
2 of service per year,
3 completion of 500 hours of service within such period shall
4 be treated as completion of 1,000 hours of service.

5 “(iii) For purposes of clause (ii), the extent to which
6 employment in any type of position customarily constitutes
7 less than 1,000 hours of service per year shall be deter-
8 mined with respect to each pension plan in accordance
9 with such regulations as the Secretary may prescribe pro-
10 viding for consideration of facts and circumstances pecu-
11 liar to the work-force constituting the participants in such
12 plan.”.

13 **SEC. 402. TREATMENT OF EMPLOYEES WORKING AT LESS**
14 **THAN FULL-TIME UNDER GROUP HEALTH**
15 **PLANS.**

16 (a) IN GENERAL.—Part 2 of subtitle B of title I of
17 the Employee Retirement Income Security Act of 1974 is
18 amended—

19 (1) by redesignating section 211 (29 U.S.C.
20 1061) as section 212; and

21 (2) by inserting after section 210 (29 U.S.C.
22 1060) the following new section:

1 **“SEC. 211. TREATMENT OF PART-TIME WORKERS UNDER**
2 **GROUP HEALTH PLANS.**

3 “(a) IN GENERAL.—A reduction in the employer-pro-
4 vided premium under a group health plan with respect to
5 any employee for any period of coverage solely because the
6 employee’s customary employment is less than full-time
7 may be provided under such plan only if the employee is
8 described in subsection (b) and only to the extent per-
9 mitted under subsection (c).

10 “(b) REDUCTIONS APPLICABLE TO EMPLOYEES
11 WORKING LESS THAN FULL-TIME.—

12 “(1) IN GENERAL.—An employee is described in
13 this subsection if such employee, as of the beginning
14 of the period of coverage referred to in subsection
15 (a)—

16 “(A) has customarily completed less than
17 30 hours of service per week, or

18 “(B) is employed in a type of position in
19 which employment customarily constitutes less
20 than 30 hours of service per week.

21 “(2) REGULATIONS.—For purposes of para-
22 graph (1), whether employment in any type of posi-
23 tion customarily constitutes less than 30 hours of
24 service per week shall be determined with respect to
25 each group health plan in accordance with such reg-
26 ulations as the Secretary may prescribe providing

1 for consideration of facts and circumstances peculiar
2 to the work-force constituting the participants in
3 such plan.

4 “(c) AMOUNT OF PERMISSIBLE REDUCTION.—The
5 employer-provided premium under a group health plan
6 with respect to any employee for any period of coverage,
7 after the reduction permitted under subsection (a), shall
8 not be less than a ratable portion of the employer-provided
9 premium which would be provided under such plan for
10 such period of coverage with respect to an employee who
11 completes 30 hours of service per week.

12 “(d) DEFINITIONS.—For purposes of this section—

13 “(1) GROUP HEALTH PLAN.—The term ‘group
14 health plan’ has the meaning provided such term in
15 section 607(1).

16 “(2) EMPLOYER-PROVIDED PREMIUM.—

17 “(A) IN GENERAL.—The term ‘employer-
18 provided premium’ under a plan for any period
19 of coverage means the portion of the applicable
20 premium under the plan for such period of cov-
21 erage which is attributable under the plan to
22 employer contributions.

23 “(B) APPLICABLE PREMIUM.—For pur-
24 poses of subparagraph (A), in determining the
25 applicable premium of a group health plan,

1 principles similar to the principles applicable
2 under section 604 shall apply.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 201(1) of such Act (29 U.S.C.
5 1051(1)) is amended by inserting “, except with re-
6 spect to section 211” before the semicolon.

7 (2) The table of contents in section 1 of such
8 Act is amended by striking the item relating to sec-
9 tion 211 and inserting the following new items:

“211. Treatment of part-time workers under group health plans.

“212. Effective date.”.

10 **SEC. 403. EXPANSION OF DEFINITION OF EMPLOYEE TO IN-**
11 **CLUDE CERTAIN INDIVIDUALS WHOSE SERV-**
12 **ICES ARE LEASED OR CONTRACTED FOR.**

13 Paragraph (6) of section 3 of the Employee Retire-
14 ment Income Security Act of 1974 (29 U.S.C. 1002(6))
15 is amended—

16 (1) by inserting “(A)” after “(6)”; and

17 (2) by adding at the end the following new sub-
18 paragraph:

19 “(B) Such term includes, with respect to any em-
20 ployer, any person who is not an employee (within the
21 meaning of subparagraph (A)) of such employer and who
22 provides services to such employer, if—

23 “(i) such person has (pursuant to an agreement
24 with such employer or any other person) performed

1 such services for such employer (or for such em-
2 ployer and related persons (within the meaning of
3 section 144(a)(3) of the Internal Revenue Code of
4 1986)) for a period of at least 1 year (6 months in
5 the case of core health benefits) at the rate of at
6 least 500 hours of service per year, and

7 “(ii) such services are of a type historically per-
8 formed, in the business field of the employer, by em-
9 ployees (within the meaning of subparagraph (A)).”.

10 **SEC. 404. EFFECTIVE DATES.**

11 (a) IN GENERAL.—Except as provided in subsection
12 (b), the amendments made by this subtitle shall apply with
13 respect to plan years beginning on or after January 1,
14 2007.

15 (b) SPECIAL RULE FOR COLLECTIVELY BARGAINED
16 PLANS.—In the case of a plan maintained pursuant to 1
17 or more collective bargaining agreements between em-
18 ployee representatives and 1 or more employers ratified
19 on or before the date of the enactment of this Act, sub-
20 section (a) shall be applied to benefits pursuant to, and
21 individuals covered by, any such agreement by substituting
22 for “January 1, 2007” the date of the commencement of
23 the first plan year beginning on or after the earlier of—

24 (1) the later of—

25 (A) January 1, 2007, or

1 (B) the date on which the last of such col-
2 lective bargaining agreements terminates (de-
3 termined without regard to any extension there-
4 of after the date of the enactment of this Act),
5 or
6 (2) January 1, 2009.

7 (c) PLAN AMENDMENTS.—If any amendment made
8 by this subtitle requires an amendment to any plan, such
9 plan amendment shall not be required to be made before
10 the first plan year beginning on or after January 1, 2007,
11 if—

12 (1) during the period after such amendment
13 made by this Act takes effect and before such first
14 plan year, the plan is operated in accordance with
15 the requirements of such amendment made by this
16 subtitle, and

17 (2) such plan amendment applies retroactively
18 to the period after such amendment made by this
19 subtitle takes effect and such first plan year.

20 A plan shall not be treated as failing to provide definitely
21 determinable benefits or contributions, or to be operated
22 in accordance with the provisions of the plan, merely be-
23 cause it operates in accordance with this subsection.

1 **Subtitle B—United States Business**
2 **Telework Act**

3 **SEC. 411. SHORT TITLE.**

4 This subtitle may be cited as the “United States
5 Business Telework Act”.

6 **SEC. 412. TELEWORK PILOT PROGRAM.**

7 (a) PROGRAM.—In accordance with this subtitle, the
8 Secretary of Labor shall conduct, in not more than 5
9 States, a pilot program to raise awareness about telework
10 among employers and to encourage such employers to
11 offer telework options to employees.

12 (b) PERMISSIBLE ACTIVITIES.—In carrying out the
13 pilot program, the Secretary is encouraged to—

14 (1) produce educational materials and conduct
15 presentations designed to raise awareness of the
16 benefits and the ease of telework;

17 (2) conduct outreach to businesses that are con-
18 sidering offering telework options;

19 (3) acquire telework technologies and equip-
20 ment to be used for demonstration purposes; and

21 (4) ensure that expectant and new mothers who
22 are employed by businesses that participate in the
23 pilot program are given the option to telework dur-
24 ing the 1-year period after the date of birth.

1 **SEC. 413. REPORT TO CONGRESS.**

2 Not later than 2 years after the first date on which
3 funds are appropriated to carry out this subtitle, the Sec-
4 retary shall transmit to the Congress a report containing
5 the results of an evaluation of the pilot program and any
6 recommendations as to whether the pilot program, with
7 or without modification, should be expanded.

8 **SEC. 414. DEFINITION.**

9 In this subtitle, the term “telework” means the per-
10 formance of any portion of work functions by an employee
11 outside the normal place of business under circumstances
12 which reduce or eliminate the need to commute.

13 **SEC. 415. TERMINATION.**

14 The pilot program shall terminate 2 years after the
15 first date on which funds are appropriated to carry out
16 this subtitle.

17 **SEC. 416. AUTHORIZATION OF APPROPRIATIONS.**

18 There is authorized to be appropriated \$5,000,000 to
19 carry out this subtitle.

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