

## Calendar No. 398

112TH CONGRESS  
2D SESSION**H. R. 5652**

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IN THE SENATE OF THE UNITED STATES

MAY 14, 2012

Received and read the first time

MAY 15, 2012

Read the second time and placed on the calendar

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**AN ACT**

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sequester Replacement  
5 Reconciliation Act of 2012”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

## TITLE I—AGRICULTURE

Sec. 101. Short title.

- Sec. 102. ARRA sunset at June 30, 2012.
- Sec. 103. Categorical eligibility limited to cash assistance.
- Sec. 104. Standard utility allowances based on the receipt of energy assistance payments.
- Sec. 105. Employment and training; workfare.
- Sec. 106. End State bonus program for the supplemental nutrition assistance program.
- Sec. 107. Funding of employment and training programs.
- Sec. 108. Turn off indexing for nutrition education and obesity prevention.
- Sec. 109. Extension of Authorization of Food and Nutrition Act of 2008.
- Sec. 110. Effective dates and application of amendments.

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- Sec. 201. Repealing mandatory funding to states to establish American Health Benefit Exchanges.
- Sec. 202. Repealing Prevention and Public Health Fund.
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### Subtitle B—Medicaid

- Sec. 211. Revision of provider tax indirect guarantee threshold.
- Sec. 212. Rebasings of State DSH allotments for fiscal year 2022.
- Sec. 213. Repeal of Medicaid and CHIP maintenance of effort requirements under PPACA.
- Sec. 214. Medicaid payments to territories.
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### Subtitle A—Orderly Liquidation Fund

- Sec. 311. Repeal of liquidation authority.

### Subtitle B—Home Affordable Modification Program

- Sec. 321. Short title.
- Sec. 322. Congressional findings.
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### Subtitle C—Bureau of Consumer Financial Protection

- Sec. 331. Bringing the Bureau of Consumer Financial Protection into the regular appropriations process.

### Subtitle D—Flood Insurance Reform

- Sec. 341. Short title.
- Sec. 342. Extensions.
- Sec. 343. Mandatory purchase.
- Sec. 344. Reforms of coverage terms.
- Sec. 345. Reforms of premium rates.
- Sec. 346. Technical Mapping Advisory Council.
- Sec. 347. FEMA incorporation of new mapping protocols.

- Sec. 348. Treatment of levees.
- Sec. 349. Privatization initiatives.
- Sec. 350. FEMA annual report on insurance program.
- Sec. 351. Mitigation assistance.
- Sec. 352. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 353. Notification to members of congress of flood map revisions and updates.
- Sec. 354. Notification and appeal of map changes; notification to communities of establishment of flood elevations.
- Sec. 355. Notification to tenants of availability of contents insurance.
- Sec. 356. Notification to policy holders regarding direct management of policy by FEMA.
- Sec. 357. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 358. Reimbursement for costs incurred by homeowners and communities obtaining letters of map amendment or revision.
- Sec. 359. Enhanced communication with certain communities during map updating process.
- Sec. 360. Notification to residents newly included in flood hazard areas.
- Sec. 361. Treatment of swimming pool enclosures outside of hurricane season.
- Sec. 362. Information regarding multiple perils claims.
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- Sec. 366. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
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- Sec. 369. Studies of voluntary community-based flood insurance options.
- Sec. 370. Report on inclusion of building codes in floodplain management criteria.
- Sec. 371. Study on graduated risk.
- Sec. 372. Report on flood-in-progress determination.
- Sec. 373. Study on repaying flood insurance debt.
- Sec. 374. No cause of action.
- Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

#### Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

#### TITLE IV—COMMITTEE ON THE JUDICIARY

- Sec. 401. Short title.
- Sec. 402. Encouraging speedy resolution of claims.
- Sec. 403. Compensating patient injury.
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- Sec. 405. Punitive damages.
- Sec. 406. Authorization of payment of future damages to claimants in health care lawsuits.
- Sec. 407. Definitions.
- Sec. 408. Effect on other laws.
- Sec. 409. State flexibility and protection of States' rights.
- Sec. 410. Applicability; effective date.

TITLE V—COMMITTEE ON OVERSIGHT AND GOVERNMENT  
REFORM

- Sec. 501. Retirement contributions.  
 Sec. 502. Annuity supplement.  
 Sec. 503. Contributions to Thrift Savings Fund of payments for accrued or accumulated leave.

TITLE VI—COMMITTEE ON WAYS AND MEANS

Subtitle A—Recapture of Overpayments Resulting From Certain Federally-  
subsidized Health Insurance

- Sec. 601. Recapture of overpayments resulting from certain federally-subsidized health insurance.

Subtitle B—Social Security Number Required to Claim the Refundable  
Portion of the Child Tax Credit

- Sec. 611. Social security number required to claim the refundable portion of the child tax credit.

Subtitle C—Human Resources Provisions

- Sec. 621. Repeal of the program of block grants to States for social services.

TITLE VII—SEQUESTER REPLACEMENT

- Sec. 701. Short title.  
 Sec. 702. Protecting veterans programs from sequester.  
 Sec. 703. Achieving \$19 billion in discretionary savings.  
 Sec. 704. Conforming amendments to section 314 of the Congressional Budget and Impoundment Control Act of 1974.  
 Sec. 705. Treatment for PAYGO purposes.  
 Sec. 706. Elimination of the fiscal year 2013 sequestration for defense direct spending.

1                   **TITLE I—AGRICULTURE**

2   **SEC. 101. SHORT TITLE.**

3           This title may be cited as the “Agricultural Reconcili-  
 4   ation Act of 2012”.

5   **SEC. 102. ARRA SUNSET AT JUNE 30, 2012.**

6           Section 101(a)(2) of division A of the American Re-  
 7   covery and Reinvestment Act of 2009 (Public Law 111–  
 8   5; 123 Stat. 120) is amended by striking “October 31,  
 9   2013” and inserting “June 30, 2012”.

1 **SEC. 103. CATEGORICAL ELIGIBILITY LIMITED TO CASH AS-**  
2 **SISTANCE.**

3 Section 5 of the Food and Nutrition Act of 2008 (7  
4 U.S.C. 2014) is amended—

5 (1) in the 2d sentence of subsection (a) by  
6 striking “households in which each member receives  
7 benefits” and inserting “households in which each  
8 member receives cash assistance”, and

9 (2) in subsection (j) by striking “or who re-  
10 ceives benefits under a State program” and inserting  
11 “or who receives cash assistance under a State pro-  
12 gram”.

13 **SEC. 104. STANDARD UTILITY ALLOWANCES BASED ON THE**  
14 **RECEIPT OF ENERGY ASSISTANCE PAY-**  
15 **MENTS.**

16 (a) STANDARD UTILITY ALLOWANCE.—Section 5 of  
17 the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is  
18 amended—

19 (1) in subsection (e)(6)(C) by striking clause  
20 (iv), and

21 (2) in subsection (k) by striking paragraph (4)  
22 and inserting the following:

23 “(4) THIRD PARTY ENERGY ASSISTANCE PAY-  
24 MENTS.—For purposes of subsection (d)(1), a pay-  
25 ment made under a State law (other than a law re-  
26 ferred to in paragraph (2)(G)) to provide energy as-

1       sistance to a household shall be considered money  
2       payable directly to the household.”.

3       (b)       CONFORMING       AMENDMENTS.—Section  
4       2605(f)(2) of the Low-Income Home Energy Assistance  
5       Act of 1981 (42 U.S.C. 8624(f)(2)) is amended—

6               (1) by striking “and for purposes of deter-  
7       mining any excess shelter expense deduction under  
8       section 5(e) of the Food and Nutrition Act of 2008  
9       (7 U.S.C. 2014(e))”, and

10              (2) in subparagraph (A) by inserting before the  
11       semicolon the following: “, except that such pay-  
12       ments or allowances shall not be deemed to be ex-  
13       pended for purposes of determining any excess shel-  
14       ter expense deduction under section 5(e)(6) of the  
15       Food and Nutrition Act of 2008 (7 U.S.C.  
16       2014(e)(6))”.

17       **SEC. 105. EMPLOYMENT AND TRAINING; WORKFARE.**

18       (a)       ADMINISTRATIVE COST-SHARING FOR EMPLOY-  
19       MENT AND TRAINING PROGRAMS.—

20              (1)       IN GENERAL.—Section 16 of the Food and  
21       Nutrition Act of 2008 (7 U.S.C. 2025) is amend-  
22       ed—

23              (A)       in subsection (a) by inserting “(other  
24       than a program carried out under section  
25       6(d)(4) or section 20)” after “supplemental nu-

1           trition assistance program” the 1st place it ap-  
2           pears, and

3                   (B) in subsection (h)—

4                           (i) by striking paragraphs (2) and (3),  
5                   and

6                           (ii) by redesignating paragraphs (4)  
7                   and (5) as paragraphs (2) and (3), respec-  
8                   tively.

9           (2) CONFORMING AMENDMENTS.—

10                   (A) Section 17(b)(1)(B)(iv)(III)(hh) of the  
11           Food and Nutrition Act of 2008 (7 U.S.C.  
12           2026(b)(1)(B)(iv)(III)(hh)) is amended by  
13           striking “(g), (h)(2), or (h)(3)” and inserting  
14           “or (g)”.

15                   (B) Section 22(d)(1)(B)(ii) of the Food  
16           and Nutrition Act of 2008 (7 U.S.C.  
17           2031(d)(1)(B)(ii)) is amended is amended by  
18           striking “, (g), (h)(2), and (h)(3)” and insert-  
19           ing “and (g)”.

20           (b) ADMINISTRATIVE COST-SHARING AND REIM-  
21           BURSEMENTS FOR WORKFARE.—Section 20 of the Food  
22           and Nutrition Act of 2008 (7 U.S.C. 2029) is amended  
23           by striking subsection (g).

1 **SEC. 106. END STATE BONUS PROGRAM FOR THE SUPPLE-**  
2 **MENTAL NUTRITION ASSISTANCE PROGRAM.**

3 Section 16 of the Food and Nutrition Act of 2008  
4 (7 U.S.C. 2025) is amended by striking subsection (d).

5 **SEC. 107. FUNDING OF EMPLOYMENT AND TRAINING PRO-**  
6 **GRAMS.**

7 For purposes of fiscal year 2013, the reference to  
8 \$90,000,000 in section 16(h)(1)(A) of the Food and Nu-  
9 trition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) shall be  
10 deemed to be a reference to \$79,000,000.

11 **SEC. 108. TURN OFF INDEXING FOR NUTRITION EDU-**  
12 **CATION AND OBESITY PREVENTION.**

13 Section 28(d) of the Food and Nutrition Act of 2008  
14 (7 U.S.C. 2037(d)) is amended by striking “years—” and  
15 all that follows through the period at the end, and insert-  
16 ing “years, \$375,000,000.”.

17 **SEC. 109. EXTENSION OF AUTHORIZATION OF FOOD AND**  
18 **NUTRITION ACT OF 2008.**

19 Section 18(a)(1) of the Food and Nutrition Act of  
20 2008 (7 U.S.C. 2027(a)(1)) is amended by striking  
21 “2012” and inserting “2013”.

22 **SEC. 110. EFFECTIVE DATES AND APPLICATION OF AMEND-**  
23 **MENTS.**

24 (a) GENERAL EFFECTIVE DATE.—Except as pro-  
25 vided in subsection (b), this title and the amendments  
26 made by this title shall take effect on October 1, 2012,



1 and shall apply only with respect to certification periods  
2 that begin on or after such date.

3 (b) SPECIAL EFFECTIVE DATE.—Section 107 and  
4 the amendments made by sections 102, 103, 104, and 109  
5 shall take effect on the date of the enactment of this Act  
6 and shall apply only with respect to certification periods  
7 that begin on or after such date.

8 **TITLE II—COMMITTEE ON**  
9 **ENERGY AND COMMERCE**  
10 **Subtitle A—Repeal of Certain ACA**  
11 **Funding Provisions**

12 **SEC. 201. REPEALING MANDATORY FUNDING TO STATES TO**  
13 **ESTABLISH AMERICAN HEALTH BENEFIT EX-**  
14 **CHANGES.**

15 (a) IN GENERAL.—Section 1311(a) of the Patient  
16 Protection and Affordable Care Act (42 U.S.C. 18031(a))  
17 is repealed.

18 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the  
19 funds made available under such section 1311(a), the un-  
20 obligated balance is rescinded.

21 **SEC. 202. REPEALING PREVENTION AND PUBLIC HEALTH**  
22 **FUND.**

23 (a) IN GENERAL.—Section 4002 of the Patient Pro-  
24 tection and Affordable Care Act (42 U.S.C. 300u–11) is  
25 repealed.

1 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the  
2 funds made available by such section 4002, the unobli-  
3 gated balance is rescinded.

4 **SEC. 203. RESCINDING UNOBLIGATED BALANCES FOR CO-**  
5 **OP PROGRAM.**

6 Of the funds made available under section 1322(g)  
7 of the Patient Protection and Affordable Care Act (42  
8 U.S.C. 18042(g)), the unobligated balance is rescinded.

9 **Subtitle B—Medicaid**

10 **SEC. 211. REVISION OF PROVIDER TAX INDIRECT GUAR-**  
11 **ANTEE THRESHOLD.**

12 Section 1903(w)(4)(C)(ii) of the Social Security Act  
13 (42 U.S.C. 1396b(w)(4)(C)(ii)) is amended by inserting  
14 “and for portions of fiscal years beginning on or after Oc-  
15 tober 1, 2012,” after “October 1, 2011,”.

16 **SEC. 212. REBASING OF STATE DSH ALLOTMENTS FOR FIS-**  
17 **CAL YEAR 2022.**

18 Section 1923(f) of the Social Security Act (42 U.S.C.  
19 1396r–4(f)) is amended—

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

22 (2) in paragraph (3)(A) by striking “para-  
23 graphs (6), (7), and (8)” and inserting “paragraphs  
24 (6), (7), (8), and (9)”; and

1 (3) by inserting after paragraph (8) the fol-  
 2 lowing new paragraph:

3 “(9) REBASING OF STATE DSH ALLOTMENTS  
 4 FOR FISCAL YEAR 2022.—With respect to fiscal  
 5 2022, for purposes of applying paragraph (3)(A) to  
 6 determine the DSH allotment for a State, the  
 7 amount of the DSH allotment for the State under  
 8 paragraph (3) for fiscal year 2021 shall be treated  
 9 as if it were such amount as reduced under para-  
 10 graph (7).”.

11 **SEC. 213. REPEAL OF MEDICAID AND CHIP MAINTENANCE**  
 12 **OF EFFORT REQUIREMENTS UNDER PPACA.**

13 (a) REPEAL OF PPACA MEDICAID MOE.—Section  
 14 1902 of the Social Security Act (42 U.S.C. 1396a) is  
 15 amended by striking subsection (gg).

16 (b) REPEAL OF PPACA CHIP MOE.—Section  
 17 2105(d)(3) of the Social Security Act (42 U.S.C.  
 18 1397ee(d)(3)) is amended—

19 (1) by striking subparagraph (A);

20 (2) by redesignating subparagraphs (B) and  
 21 (C) as subparagraphs (A) and (B), respectively; and

22 (3) in the paragraph heading, by striking  
 23 “CONTINUATION OF ELIGIBILITY STANDARDS FOR  
 24 CHILDREN UNTIL OCTOBER 1, 2019” and inserting  
 25 “CONTINUITY OF COVERAGE”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 1902(a) of the Social Security Act  
3 (42 U.S.C. 1396a(a)) is amended by striking para-  
4 graph (74).

5 (2) Effective January 1, 2014, paragraph (14)  
6 of section 1902(e) (as added by section 2002(a) of  
7 Public Law 111–148) is amended by striking the  
8 third sentence of subparagraph (A).

9 (d) EFFECTIVE DATE.—Except as provided in sub-  
10 section (c)(2), the amendments made by this section shall  
11 take effect on the date of the enactment of this section.

12 **SEC. 214. MEDICAID PAYMENTS TO TERRITORIES.**

13 (a) LIMIT ON PAYMENTS.—Section 1108(g) of the  
14 Social Security Act (42 U.S.C. 1308(g)) is amended—

15 (1) in paragraph (2)—

16 (A) by striking “paragraphs (3) and (5)”;

17 and

18 (B) by inserting “paragraph (3)” after

19 “and subject to”;

20 (2) in paragraph (4), by striking “(3), and”

21 and all that follows through “of this subsection” and

22 inserting “and (3) of this subsection”; and

23 (3) by striking paragraph (5).

24 (b) FMAP.—The first sentence of section 1905(b) of  
25 the Social Security Act (42 U.S.C. 1396d(b)) is amended

1 by striking “shall be 55 percent” and inserting “shall be  
2 50 percent”.

3 **SEC. 215. REPEALING BONUS PAYMENTS FOR ENROLL-**  
4 **MENT UNDER MEDICAID AND CHIP.**

5 (a) IN GENERAL.—Paragraphs (3) and (4) of section  
6 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a))  
7 are repealed.

8 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the  
9 funds made available by section 2105(a)(3) of the Social  
10 Security Act, the unobligated balance is rescinded.

11 (c) CONFORMING CHANGES.—

12 (1) AVAILABILITY OF EXCESS FUNDS FOR PER-  
13 FORMANCE BONUSES.—Section 2104(n)(2) of the  
14 Social Security Act (42 U.S.C. 1397dd(n)(2)) is  
15 amended by striking subparagraph (D).

16 (2) OUTREACH OR COVERAGE BENCHMARKS.—  
17 Section 2111(b)(3) of the Social Security Act (42  
18 U.S.C. 1397kk(b)(3)) is amended—

19 (A) in subparagraph (A)—

20 (i) in clause (i), by inserting “or”  
21 after the semicolon at the end; and

22 (ii) by striking clause (ii); and

23 (B) by striking subparagraph (C).

# 1 **TITLE III—FINANCIAL SERVICES**

## 2 **SEC. 301. TABLE OF CONTENTS.**

3 The table of contents for this title is as follows:

### TITLE III—FINANCIAL SERVICES

Sec. 301. Table of contents.

#### Subtitle A—Orderly Liquidation Fund

Sec. 311. Repeal of liquidation authority.

#### Subtitle B—Home Affordable Modification Program

Sec. 321. Short title.

Sec. 322. Congressional findings.

Sec. 323. Termination of authority.

Sec. 324. Sense of Congress.

#### Subtitle C—Bureau of Consumer Financial Protection

Sec. 331. Bringing the Bureau of Consumer Financial Protection into the regular appropriations process.

#### Subtitle D—Flood Insurance Reform

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Sec. 347. FEMA incorporation of new mapping protocols.

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 Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

1     **Subtitle A—Orderly Liquidation**  
 2                                     **Fund**

3     **SEC. 311. REPEAL OF LIQUIDATION AUTHORITY.**

4             (a) IN GENERAL.—Title II of the Dodd-Frank Wall  
 5 Street Reform and Consumer Protection Act is hereby re-  
 6 pealed and any Federal law amended by such title shall,  
 7 on and after the date of enactment of this Act, be effective  
 8 as if title II of the Dodd-Frank Wall Street Reform and  
 9 Consumer Protection Act had not been enacted.

10            (b) CONFORMING AMENDMENTS.—

11                     (1) DODD-FRANK WALL STREET REFORM AND  
 12 CONSUMER PROTECTION ACT.—The Dodd-Frank  
 13 Wall Street Reform and Consumer Protection Act is  
 14 amended—

15                             (A) in the table of contents for such Act,  
 16                             by striking all items relating to title II;

1 (B) in section 165(d)(6), by striking “, a  
2 receiver appointed under title II,”;

3 (C) in section 716(g), by striking “or a  
4 covered financial company under title II”;

5 (D) in section 1105(e)(5), by striking  
6 “amount of any securities issued under that  
7 chapter 31 for such purpose shall be treated in  
8 the same manner as securities issued under sec-  
9 tion 208(n)(5)(E)” and inserting “issuances of  
10 such securities under that chapter 31 for such  
11 purpose shall by treated as public debt trans-  
12 actions of the United States, and the proceeds  
13 from the sale of any obligations acquired by the  
14 Secretary under this paragraph shall be depos-  
15 ited into the Treasury of the United States as  
16 miscellaneous receipts”; and

17 (E) in section 1106(c)(2), by amending  
18 subparagraph (A) to read as follows:

19 “(A) require the company to file a petition  
20 for bankruptcy under section 301 of title 11,  
21 United States Code; or”.

22 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
23 tion 10(b)(3) of the Federal Deposit Insurance Act  
24 (12 U.S.C. 1820(b)(3)) is amended by striking “, or  
25 of such nonbank financial company supervised by



1 the Board of Governors or bank holding company  
2 described in section 165(a) of the Financial Stability  
3 Act of 2010, for the purpose of implementing its au-  
4 thority to provide for orderly liquidation of any such  
5 company under title II of that Act”.

6 (3) FEDERAL RESERVE ACT.—Section 13(3) of  
7 the Federal Reserve Act is amended—

8 (A) in subparagraph (B)—

9 (i) in clause (ii), by striking “, resolu-  
10 tion under title II of the Dodd-Frank Wall  
11 Street Reform and Consumer Protection  
12 Act, or” and inserting “or is subject to  
13 resolution under”; and

14 (ii) in clause (iii), by striking “, reso-  
15 lution under title II of the Dodd-Frank  
16 Wall Street Reform and Consumer Protec-  
17 tion Act, or” and inserting “or resolution  
18 under”; and

19 (B) by striking subparagraph (E).

20 **Subtitle B—Home Affordable**  
21 **Modification Program**

22 **SEC. 321. SHORT TITLE.**

23 This subtitle may be cited as the “HAMP Termi-  
24 nation Act of 2012”.

1 **SEC. 322. CONGRESSIONAL FINDINGS.**

2 The Congress finds the following:

3 (1) According to the Department of the Treas-  
4 ury—

5 (A) the Home Affordable Modification Pro-  
6 gram (HAMP) is designed to “help as many as  
7 3 to 4 million financially struggling homeowners  
8 avoid foreclosure by modifying loans to a level  
9 that is affordable for borrowers now and sus-  
10 tainable over the long term”; and

11 (B) as of February 2012, only 782,609 ac-  
12 tive permanent mortgage modifications were  
13 made under HAMP.

14 (2) Many homeowners whose HAMP modifica-  
15 tions were canceled suffered because they made fu-  
16 tile payments and some of those homeowners were  
17 even forced into foreclosure.

18 (3) The Special Inspector General for TARP  
19 reported that HAMP “benefits only a small portion  
20 of distressed homeowners, offers others little more  
21 than false hope, and in certain cases causes more  
22 harm than good”.

23 (4) Approximately \$30 billion was obligated by  
24 the Department of the Treasury to HAMP, however,  
25 approximately only \$2.54 billion has been disbursed.

1           (5) Terminating HAMP would save American  
2           taxpayers approximately \$2.84 billion, according to  
3           the Congressional Budget Office.

4 **SEC. 323. TERMINATION OF AUTHORITY.**

5           Section 120 of the Emergency Economic Stabilization  
6 Act of 2008 (12 U.S.C. 5230) is amended by adding at  
7 the end the following new subsection:

8           “(c) TERMINATION OF AUTHORITY TO PROVIDE  
9 NEW ASSISTANCE UNDER THE HOME AFFORDABLE  
10 MODIFICATION PROGRAM.—

11           “(1) IN GENERAL.—Except as provided under  
12 paragraph (2), after the date of the enactment of  
13 this subsection the Secretary may not provide any  
14 assistance under the Home Affordable Modification  
15 Program under the Making Home Affordable initia-  
16 tive of the Secretary, authorized under this Act, on  
17 behalf of any homeowner.

18           “(2) PROTECTION OF EXISTING OBLIGATIONS  
19 ON BEHALF OF HOMEOWNERS ALREADY EXTENDED  
20 AN OFFER TO PARTICIPATE IN THE PROGRAM.—  
21 Paragraph (1) shall not apply with respect to assist-  
22 ance provided on behalf of a homeowner who, before  
23 the date of the enactment of this subsection, was ex-  
24 tended an offer to participate in the Home Afford-

1       able Modification Program on a trial or permanent  
2       basis.

3               “(3) DEFICIT REDUCTION.—

4                       “(A) USE OF UNOBLIGATED FUNDS.—Not-  
5       withstanding any other provision of this title,  
6       the amounts described in subparagraph (B)  
7       shall not be available after the date of the en-  
8       actment of this subsection for obligation or ex-  
9       penditure under the Home Affordable Modifica-  
10      tion Program of the Secretary, but should be  
11      covered into the General Fund of the Treasury  
12      and should be used only for reducing the budg-  
13      et deficit of the Federal Government.

14                      “(B) IDENTIFICATION OF UNOBLIGATED  
15      FUNDS.—The amounts described in this sub-  
16      paragraph are any amounts made available  
17      under title I of the Emergency Economic Sta-  
18      bilization Act of 2008 that—

19                               “(i) have been allocated for use, but  
20                               not yet obligated as of the date of the en-  
21                               actment of this subsection, under the  
22                               Home Affordable Modification Program of  
23                               the Secretary; and

24                               “(ii) are not necessary for providing  
25                               assistance under such Program on behalf

1 of homeowners who, pursuant to para-  
2 graph (2), may be provided assistance  
3 after the date of the enactment of this sub-  
4 section.

5 “(4) STUDY OF USE OF PROGRAM BY MEMBERS  
6 OF THE ARMED FORCES, VETERANS, AND GOLD  
7 STAR RECIPIENTS.—

8 “(A) STUDY.—The Secretary shall conduct  
9 a study to determine the extent of usage of the  
10 Home Affordable Modification Program by, and  
11 the impact of such Program on, covered home-  
12 owners.

13 “(B) REPORT.—Not later than the expira-  
14 tion of the 90-day period beginning on the date  
15 of the enactment of this subsection, the Sec-  
16 retary shall submit to the Congress a report  
17 setting forth the results of the study under sub-  
18 paragraph (A) and identifying best practices,  
19 derived from studying the Home Affordable  
20 Modification Program, that could be applied to  
21 existing mortgage assistance programs available  
22 to covered homeowners.

23 “(C) COVERED HOMEOWNER.—For pur-  
24 poses of this subsection, the term ‘covered  
25 homeowner’ means a homeowner who is—

1           “(i) a member of the Armed Forces of  
2           the United States on active duty or the  
3           spouse or parent of such a member;

4           “(ii) a veteran, as such term is de-  
5           fined in section 101 of title 38, United  
6           States Code; or

7           “(iii) eligible to receive a Gold Star  
8           lapel pin under section 1126 of title 10,  
9           United States Code, as a widow, parent, or  
10          next of kin of a member of the Armed  
11          Forces person who died in a manner de-  
12          scribed in subsection (a) of such section.

13           “(5) PUBLICATION OF MEMBER AVAILABILITY  
14          FOR ASSISTANCE.—Not later than 5 days after the  
15          date of the enactment of this subsection, the Sec-  
16          retary of the Treasury shall publish to its Website  
17          on the World Wide Web in a prominent location,  
18          large point font, and boldface type the following  
19          statement: ‘The Home Affordable Modification Pro-  
20          gram (HAMP) has been terminated. If you are hav-  
21          ing trouble paying your mortgage and need help con-  
22          tacting your lender or servicer for purposes of nego-  
23          tiating or acquiring a loan modification, please con-  
24          tact your Member of Congress to assist you in con-

1       tacting your lender or servicer for the purpose of ne-  
2       gotiating or acquiring a loan modification.’.

3               “(6) NOTIFICATION TO HAMP APPLICANTS RE-  
4       QUIRED.—Not later than 30 days after the date of  
5       the enactment of this subsection, the Secretary of  
6       the Treasury shall inform each individual who ap-  
7       plied for the Home Affordable Modification Program  
8       and will not be considered for a modification under  
9       such Program due to termination of such Program  
10      under this subsection—

11              “(A) that such Program has been termi-  
12              nated;

13              “(B) that loan modifications under such  
14              Program are no longer available;

15              “(C) of the name and contact information  
16              of such individual’s Member of Congress; and

17              “(D) that the individual should contact his  
18              or her Member of Congress to assist the indi-  
19              vidual in contacting the individual’s lender or  
20              servicer for the purpose of negotiating or ac-  
21              quiring a loan modification.”.

22   **SEC. 324. SENSE OF CONGRESS.**

23       The Congress encourages banks to work with home-  
24      owners to provide loan modifications to those that are eli-  
25      gible. The Congress also encourages banks to work and

1 assist homeowners and prospective homeowners with fore-  
2 closure prevention programs and information on loan  
3 modifications.

4 **Subtitle C—Bureau of Consumer**  
5 **Financial Protection**

6 **SEC. 331. BRINGING THE BUREAU OF CONSUMER FINAN-**  
7 **CIAL PROTECTION INTO THE REGULAR AP-**  
8 **PROPRIATIONS PROCESS.**

9 Section 1017 of the Consumer Financial Protection  
10 Act of 2010 is amended—

11 (1) in subsection (a)—

12 (A) by amending the heading of such sub-  
13 section to read as follows: “BUDGET, FINAN-  
14 CIAL MANAGEMENT, AND AUDIT.—”;

15 (B) by striking paragraphs (1), (2), and  
16 (3);

17 (C) by redesignating paragraphs (4) and  
18 (5) as paragraphs (1) and (2), respectively; and

19 (D) by striking subparagraphs (E) and (F)  
20 of paragraph (1), as so redesignated;

21 (2) by striking subsections (b), (c), and (d);

22 (3) by redesignating subsection (e) as sub-  
23 section (b); and

24 (4) in subsection (b), as so redesignated—



1 (A) by striking paragraphs (1), (2), and  
2 (3) and inserting the following:

3 “(1) AUTHORIZATION OF APPROPRIATIONS.—  
4 There is authorized to be appropriated  
5 \$200,000,000 to carry out this title for each of fiscal  
6 years 2012 and 2013.”; and

7 (B) by redesignating paragraph (4) as  
8 paragraph (2).

9 **Subtitle D—Flood Insurance**  
10 **Reform**

11 **SEC. 341. SHORT TITLE.**

12 This subtitle may be cited as the “Flood Insurance  
13 Reform Act of 2012”.

14 **SEC. 342. EXTENSIONS.**

15 (a) EXTENSION OF PROGRAM.—Section 1319 of the  
16 National Flood Insurance Act of 1968 (42 U.S.C. 4026)  
17 is amended by striking “the earlier of the date of the en-  
18 actment into law of an Act that specifically amends the  
19 date specified in this section or May 31, 2012” and insert-  
20 ing “September 30, 2016”.

21 (b) EXTENSION OF FINANCING.—Section 1309(a) of  
22 such Act (42 U.S.C. 4016(a)) is amended by striking “the  
23 earlier of the date of the enactment into law of an Act  
24 that specifically amends the date specified in this section  
25 or May 31, 2012” and inserting “September 30, 2016”.

1 **SEC. 343. MANDATORY PURCHASE.**

2 (a) AUTHORITY TO TEMPORARILY SUSPEND MANDA-  
3 TORY PURCHASE REQUIREMENT.—

4 (1) IN GENERAL.—Section 102 of the Flood  
5 Disaster Protection Act of 1973 (42 U.S.C. 4012a)  
6 is amended by adding at the end the following new  
7 subsection:

8 “(i) AUTHORITY TO TEMPORARILY SUSPEND MAN-  
9 DATORY PURCHASE REQUIREMENT.—

10 “(1) FINDING BY ADMINISTRATOR THAT AREA  
11 IS AN ELIGIBLE AREA.—For any area, upon a re-  
12 quest submitted to the Administrator by a local gov-  
13 ernment authority having jurisdiction over any por-  
14 tion of the area, the Administrator shall make a  
15 finding of whether the area is an eligible area under  
16 paragraph (3). If the Administrator finds that such  
17 area is an eligible area, the Administrator shall, in  
18 the discretion of the Administrator, designate a pe-  
19 riod during which such finding shall be effective,  
20 which shall not be longer in duration than 12  
21 months.

22 “(2) SUSPENSION OF MANDATORY PURCHASE  
23 REQUIREMENT.—If the Administrator makes a find-  
24 ing under paragraph (1) that an area is an eligible  
25 area under paragraph (3), during the period speci-  
26 fied in the finding, the designation of such eligible

1 area as an area having special flood hazards shall  
2 not be effective for purposes of subsections (a), (b),  
3 and (e) of this section, and section 202(a) of this  
4 Act. Nothing in this paragraph may be construed to  
5 prevent any lender, servicer, regulated lending insti-  
6 tution, Federal agency lender, the Federal National  
7 Mortgage Association, or the Federal Home Loan  
8 Mortgage Corporation, at the discretion of such enti-  
9 ty, from requiring the purchase of flood insurance  
10 coverage in connection with the making, increasing,  
11 extending, or renewing of a loan secured by im-  
12 proved real estate or a mobile home located or to be  
13 located in such eligible area during such period or  
14 a lender or servicer from purchasing coverage on be-  
15 half of a borrower pursuant to subsection (e).

16 “(3) ELIGIBLE AREAS.—An eligible area under  
17 this paragraph is an area that is designated or will,  
18 pursuant to any issuance, revision, updating, or  
19 other change in flood insurance maps that takes ef-  
20 fect on or after the date of the enactment of the  
21 Flood Insurance Reform Act of 2012, become des-  
22 ignated as an area having special flood hazards and  
23 that meets any one of the following 3 requirements:

24 “(A) AREAS WITH NO HISTORY OF SPE-  
25 CIAL FLOOD HAZARDS.—The area does not in-

1           clude any area that has ever previously been  
2           designated as an area having special flood haz-  
3           ards.

4           “(B) AREAS WITH FLOOD PROTECTION  
5           SYSTEMS UNDER IMPROVEMENTS.—The area  
6           was intended to be protected by a flood protec-  
7           tion system—

8                   “(i) that has been decertified, or is re-  
9                   quired to be certified, as providing protec-  
10                  tion for the 100-year frequency flood  
11                  standard;

12                  “(ii) that is being improved, con-  
13                  structed, or reconstructed; and

14                  “(iii) for which the Administrator has  
15                  determined measurable progress toward  
16                  completion of such improvement, construc-  
17                  tion, reconstruction is being made and to-  
18                  ward securing financial commitments suffi-  
19                  cient to fund such completion.

20           “(C) AREAS FOR WHICH APPEAL HAS  
21           BEEN FILED.—An area for which a community  
22           has appealed designation of the area as having  
23           special flood hazards in a timely manner under  
24           section 1363.

1           “(4) EXTENSION OF DELAY.—Upon a request  
2           submitted by a local government authority having  
3           jurisdiction over any portion of the eligible area, the  
4           Administrator may extend the period during which a  
5           finding under paragraph (1) shall be effective, ex-  
6           cept that—

7                   “(A) each such extension under this para-  
8                   graph shall not be for a period exceeding 12  
9                   months; and

10                   “(B) for any area, the cumulative number  
11                   of such extensions may not exceed 2.

12           “(5) ADDITIONAL EXTENSION FOR COMMU-  
13           NITIES MAKING MORE THAN ADEQUATE PROGRESS  
14           ON FLOOD PROTECTION SYSTEM.—

15                   “(A) EXTENSION.—

16                           “(i) AUTHORITY.—Except as provided  
17                           in subparagraph (B), in the case of an eli-  
18                           gible area for which the Administrator has,  
19                           pursuant to paragraph (4), extended the  
20                           period of effectiveness of the finding under  
21                           paragraph (1) for the area, upon a request  
22                           submitted by a local government authority  
23                           having jurisdiction over any portion of the  
24                           eligible area, if the Administrator finds  
25                           that more than adequate progress has been

1 made on the construction of a flood protec-  
2 tion system for such area, as determined in  
3 accordance with the last sentence of sec-  
4 tion 1307(e) of the National Flood Insur-  
5 ance Act of 1968 (42 U.S.C. 4014(e)), the  
6 Administrator may, in the discretion of the  
7 Administrator, further extend the period  
8 during which the finding under paragraph  
9 (1) shall be effective for such area for an  
10 additional 12 months.

11 “(ii) LIMIT.—For any eligible area,  
12 the cumulative number of extensions under  
13 this subparagraph may not exceed 2.

14 “(B) EXCLUSION FOR NEW MORTGAGES.—

15 “(i) EXCLUSION.—Any extension  
16 under subparagraph (A) of this paragraph  
17 of a finding under paragraph (1) shall not  
18 be effective with respect to any excluded  
19 property after the origination, increase, ex-  
20 tension, or renewal of the loan referred to  
21 in clause (ii)(II) for the property.

22 “(ii) EXCLUDED PROPERTIES.—For  
23 purposes of this subparagraph, the term  
24 ‘excluded property’ means any improved  
25 real estate or mobile home—

1                   “(I) that is located in an eligible  
2                   area; and

3                   “(II) for which, during the period  
4                   that any extension under subpara-  
5                   graph (A) of this paragraph of a find-  
6                   ing under paragraph (1) is otherwise  
7                   in effect for the eligible area in which  
8                   such property is located—

9                   “(aa) a loan that is secured  
10                  by the property is originated; or

11                  “(bb) any existing loan that  
12                  is secured by the property is in-  
13                  creased, extended, or renewed.

14                  “(6) RULE OF CONSTRUCTION.—Nothing in  
15                  this subsection may be construed to affect the appli-  
16                  cability of a designation of any area as an area hav-  
17                  ing special flood hazards for purposes of the avail-  
18                  ability of flood insurance coverage, criteria for land  
19                  management and use, notification of flood hazards,  
20                  eligibility for mitigation assistance, or any other pur-  
21                  pose or provision not specifically referred to in para-  
22                  graph (2).

23                  “(7) REPORTS.—The Administrator shall, in  
24                  each annual report submitted pursuant to section  
25                  1320, include information identifying each finding

1 under paragraph (1) by the Administrator during  
2 the preceding year that an area is an area having  
3 special flood hazards, the basis for each such find-  
4 ing, any extensions pursuant to paragraph (4) of the  
5 periods of effectiveness of such findings, and the  
6 reasons for such extensions.”.

7 (2) NO REFUNDS.—Nothing in this subsection  
8 or the amendments made by this subsection may be  
9 construed to authorize or require any payment or re-  
10 fund for flood insurance coverage purchased for any  
11 property that covered any period during which such  
12 coverage is not required for the property pursuant to  
13 the applicability of the amendment made by para-  
14 graph (1).

15 (b) TERMINATION OF FORCE-PLACED INSURANCE.—  
16 Section 102(e) of the Flood Disaster Protection Act of  
17 1973 (42 U.S.C. 4012a(e)) is amended—

18 (1) in paragraph (2), by striking “insurance.”  
19 and inserting “insurance, including premiums or  
20 fees incurred for coverage beginning on the date on  
21 which flood insurance coverage lapsed or did not  
22 provide a sufficient coverage amount.”;

23 (2) by redesignating paragraphs (3) and (4) as  
24 paragraphs (5) and (6), respectively; and



1           (3) by inserting after paragraph (2) the fol-  
2           lowing new paragraphs:

3           “(3) TERMINATION OF FORCE-PLACED INSUR-  
4           ANCE.—Within 30 days of receipt by the lender or  
5           servicer of a confirmation of a borrower’s existing  
6           flood insurance coverage, the lender or servicer  
7           shall—

8                     “(A) terminate the force-placed insurance;  
9                     and

10                    “(B) refund to the borrower all force-  
11                    placed insurance premiums paid by the bor-  
12                    rower during any period during which the bor-  
13                    rower’s flood insurance coverage and the force-  
14                    placed flood insurance coverage were each in ef-  
15                    fect, and any related fees charged to the bor-  
16                    rower with respect to the force-placed insurance  
17                    during such period.

18                    “(4) SUFFICIENCY OF DEMONSTRATION.—For  
19                    purposes of confirming a borrower’s existing flood  
20                    insurance coverage, a lender or servicer for a loan  
21                    shall accept from the borrower an insurance policy  
22                    declarations page that includes the existing flood in-  
23                    surance policy number and the identity of, and con-  
24                    tact information for, the insurance company or  
25                    agent.”.

1           (c) USE OF PRIVATE INSURANCE TO SATISFY MAN-  
2     DATORY PURCHASE REQUIREMENT.—Section 102(b) of  
3     the Flood Disaster Protection Act of 1973 (42 U.S.C.  
4     4012a(b)) is amended—

5           (1) in paragraph (1)—

6                 (A) by striking “lending institutions not to  
7                 make” and inserting “lending institutions—

8                 “(A) not to make”;

9                 (B) in subparagraph (A), as designated by  
10                 subparagraph (A) of this paragraph, by striking  
11                 “less.” and inserting “less; and”; and

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

14                 “(B) to accept private flood insurance as  
15                 satisfaction of the flood insurance coverage re-  
16                 quirement under subparagraph (A) if the cov-  
17                 erage provided by such private flood insurance  
18                 meets the requirements for coverage under such  
19                 subparagraph.”;

20           (2) in paragraph (2), by inserting after “pro-  
21     vided in paragraph (1).” the following new sentence:

22                 “Each Federal agency lender shall accept private  
23                 flood insurance as satisfaction of the flood insurance  
24                 coverage requirement under the preceding sentence  
25                 if the flood insurance coverage provided by such pri-

1 vate flood insurance meets the requirements for cov-  
2 erage under such sentence.”;

3 (3) in paragraph (3), in the matter following  
4 subparagraph (B), by adding at the end the fol-  
5 lowing new sentence: “The Federal National Mort-  
6 gage Association and the Federal Home Loan Mort-  
7 gage Corporation shall accept private flood insurance  
8 as satisfaction of the flood insurance coverage re-  
9 quirement under the preceding sentence if the flood  
10 insurance coverage provided by such private flood in-  
11 surance meets the requirements for coverage under  
12 such sentence.”; and

13 (4) by adding at the end the following new  
14 paragraph:

15 “(5) PRIVATE FLOOD INSURANCE DEFINED.—  
16 In this subsection, the term ‘private flood insurance’  
17 means a contract for flood insurance coverage al-  
18 lowed for sale under the laws of any State.”.

19 **SEC. 344. REFORMS OF COVERAGE TERMS.**

20 (a) MINIMUM DEDUCTIBLES FOR CLAIMS.—Section  
21 1312 of the National Flood Insurance Act of 1968 (42  
22 U.S.C. 4019) is amended—

23 (1) by striking “The Director is” and inserting  
24 the following: “(a) IN GENERAL.—The Adminis-  
25 trator is”; and

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

2 “(b) MINIMUM ANNUAL DEDUCTIBLES.—

3 “(1) SUBSIDIZED RATE PROPERTIES.—For any  
4 structure that is covered by flood insurance under  
5 this title, and for which the chargeable rate for such  
6 coverage is less than the applicable estimated risk  
7 premium rate under section 1307(a)(1) for the area  
8 (or subdivision thereof) in which such structure is  
9 located, the minimum annual deductible for damage  
10 to or loss of such structure shall be \$2,000.

11 “(2) ACTUARIAL RATE PROPERTIES.—For any  
12 structure that is covered by flood insurance under  
13 this title, for which the chargeable rate for such cov-  
14 erage is not less than the applicable estimated risk  
15 premium rate under section 1307(a)(1) for the area  
16 (or subdivision thereof) in which such structure is  
17 located, the minimum annual deductible for damage  
18 to or loss of such structure shall be \$1,000.”.

19 (b) CLARIFICATION OF RESIDENTIAL AND COMMER-  
20 CIAL COVERAGE LIMITS.—Section 1306(b) of the Na-  
21 tional Flood Insurance Act of 1968 (42 U.S.C. 4013(b))  
22 is amended—

23 (1) in paragraph (2)—

24 (A) by striking “in the case of any residen-  
25 tial property” and inserting “in the case of any

1 residential building designed for the occupancy  
2 of from one to four families”; and

3 (B) by striking “shall be made available to  
4 every insured upon renewal and every applicant  
5 for insurance so as to enable such insured or  
6 applicant to receive coverage up to a total  
7 amount (including such limits specified in para-  
8 graph (1)(A)(i)) of \$250,000” and inserting  
9 “shall be made available, with respect to any  
10 single such building, up to an aggregate liability  
11 (including such limits specified in paragraph  
12 (1)(A)(i)) of \$250,000”; and  
13 (2) in paragraph (4)—

14 (A) by striking “in the case of any nonresi-  
15 dential property, including churches,” and in-  
16 serting “in the case of any nonresidential build-  
17 ing, including a church,”; and

18 (B) by striking “shall be made available to  
19 every insured upon renewal and every applicant  
20 for insurance, in respect to any single structure,  
21 up to a total amount (including such limit spec-  
22 ified in subparagraph (B) or (C) of paragraph  
23 (1), as applicable) of \$500,000 for each struc-  
24 ture and \$500,000 for any contents related to  
25 each structure” and inserting “shall be made

1 available with respect to any single such build-  
2 ing, up to an aggregate liability (including such  
3 limits specified in subparagraph (B) or (C) of  
4 paragraph (1), as applicable) of \$500,000, and  
5 coverage shall be made available up to a total  
6 of \$500,000 aggregate liability for contents  
7 owned by the building owner and \$500,000 ag-  
8 gregate liability for each unit within the build-  
9 ing for contents owned by the tenant”.

10 (c) INDEXING OF MAXIMUM COVERAGE LIMITS.—

11 Subsection (b) of section 1306 of the National Flood In-  
12 surance Act of 1968 (42 U.S.C. 4013(b)) is amended—

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

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

17 (3) by redesignating paragraph (5) as para-  
18 graph (7); and

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

21 “(8) each of the dollar amount limitations  
22 under paragraphs (2), (3), (4), (5), and (6) shall be  
23 adjusted effective on the date of the enactment of  
24 the Flood Insurance Reform Act of 2012, such ad-  
25 justments shall be calculated using the percentage

1 change, over the period beginning on September 30,  
2 1994, and ending on such date of enactment, in  
3 such inflationary index as the Administrator shall,  
4 by regulation, specify, and the dollar amount of such  
5 adjustment shall be rounded to the next lower dollar;  
6 and the Administrator shall cause to be published in  
7 the Federal Register the adjustments under this  
8 paragraph to such dollar amount limitations; except  
9 that in the case of coverage for a property that is  
10 made available, pursuant to this paragraph, in an  
11 amount that exceeds the limitation otherwise appli-  
12 cable to such coverage as specified in paragraph (2),  
13 (3), (4), (5), or (6), the total of such coverage shall  
14 be made available only at chargeable rates that are  
15 not less than the estimated premium rates for such  
16 coverage determined in accordance with section  
17 1307(a)(1).”.

18 (d) OPTIONAL COVERAGE FOR LOSS OF USE OF PER-  
19 SONAL RESIDENCE AND BUSINESS INTERRUPTION.—Sub-  
20 section (b) of section 1306 of the National Flood Insur-  
21 ance Act of 1968 (42 U.S.C. 4013(b)), as amended by  
22 the preceding provisions of this section, is further amend-  
23 ed by inserting after paragraph (4) the following new  
24 paragraphs:

1           “(5) the Administrator may provide that, in the  
2 case of any residential property, each renewal or new  
3 contract for flood insurance coverage may provide  
4 not more than \$5,000 aggregate liability per dwell-  
5 ing unit for any necessary increases in living ex-  
6 penses incurred by the insured when losses from a  
7 flood make the residence unfit to live in, except  
8 that—

9           “(A) purchase of such coverage shall be at  
10 the option of the insured;

11           “(B) any such coverage shall be made  
12 available only at chargeable rates that are not  
13 less than the estimated premium rates for such  
14 coverage determined in accordance with section  
15 1307(a)(1); and

16           “(C) the Administrator may make such  
17 coverage available only if the Administrator  
18 makes a determination and causes notice of  
19 such determination to be published in the Fed-  
20 eral Register that—

21           “(i) a competitive private insurance  
22 market for such coverage does not exist;  
23 and

24           “(ii) the national flood insurance pro-  
25 gram has the capacity to make such cov-



1           erage available without borrowing funds  
2           from the Secretary of the Treasury under  
3           section 1309 or otherwise;

4           “(6) the Administrator may provide that, in the  
5           case of any commercial property or other residential  
6           property, including multifamily rental property, cov-  
7           erage for losses resulting from any partial or total  
8           interruption of the insured’s business caused by  
9           damage to, or loss of, such property from a flood  
10          may be made available to every insured upon re-  
11          newal and every applicant, up to a total amount of  
12          \$20,000 per property, except that—

13                 “(A) purchase of such coverage shall be at  
14                 the option of the insured;

15                 “(B) any such coverage shall be made  
16                 available only at chargeable rates that are not  
17                 less than the estimated premium rates for such  
18                 coverage determined in accordance with section  
19                 1307(a)(1); and

20                 “(C) the Administrator may make such  
21                 coverage available only if the Administrator  
22                 makes a determination and causes notice of  
23                 such determination to be published in the Fed-  
24                 eral Register that—

1                   “(i) a competitive private insurance  
2                   market for such coverage does not exist;  
3                   and

4                   “(ii) the national flood insurance pro-  
5                   gram has the capacity to make such cov-  
6                   erage available without borrowing funds  
7                   from the Secretary of the Treasury under  
8                   section 1309 or otherwise;”.

9                   (e) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR  
10                  RESIDENTIAL PROPERTIES.—Section 1306 of the Na-  
11                  tional Flood Insurance Act of 1968 (42 U.S.C. 4013) is  
12                  amended by adding at the end the following new sub-  
13                  section:

14                  “(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR  
15                  RESIDENTIAL PROPERTIES.—

16                         “(1) AUTHORITY.—In addition to any other  
17                         terms and conditions under subsection (a), such reg-  
18                         ulations shall provide that, in the case of any resi-  
19                         dential property, premiums for flood insurance cov-  
20                         erage made available under this title for such prop-  
21                         erty may be paid in installments.

22                         “(2) LIMITATIONS.—In implementing the au-  
23                         thority under paragraph (1), the Administrator may  
24                         establish increased chargeable premium rates and  
25                         surcharges, and deny coverage and establish such

1 other sanctions, as the Administrator considers nec-  
2 essary to ensure that insureds purchase, pay for,  
3 and maintain coverage for the full term of a contract  
4 for flood insurance coverage or to prevent insureds  
5 from purchasing coverage only for periods during a  
6 year when risk of flooding is comparatively higher or  
7 canceling coverage for periods when such risk is  
8 comparatively lower.”.

9 (f) **EFFECTIVE DATE OF POLICIES COVERING PROP-**  
10 **ERTIES AFFECTED BY FLOODS IN PROGRESS.**—Para-  
11 graph (1) of section 1306(c) of the National Flood Insur-  
12 ance Act of 1968 (42 U.S.C. 4013(c)) is amended by add-  
13 ing after the period at the end the following: “With respect  
14 to any flood that has commenced or is in progress before  
15 the expiration of such 30-day period, such flood insurance  
16 coverage for a property shall take effect upon the expira-  
17 tion of such 30-day period and shall cover damage to such  
18 property occurring after the expiration of such period that  
19 results from such flood, but only if the property has not  
20 suffered damage or loss as a result of such flood before  
21 the expiration of such 30-day period.”.

22 **SEC. 345. REFORMS OF PREMIUM RATES.**

23 (a) **INCREASE IN ANNUAL LIMITATION ON PREMIUM**  
24 **INCREASES.**—Section 1308(e) of the National Flood In-

1 surance Act of 1968 (42 U.S.C. 4015(e)) is amended by  
2 striking “10 percent” and inserting “20 percent”.

3 (b) PHASE-IN OF RATES FOR CERTAIN PROPERTIES  
4 IN NEWLY MAPPED AREAS.—

5 (1) IN GENERAL.—Section 1308 of the Na-  
6 tional Flood Insurance Act of 1968 (42 U.S.C.  
7 4015) is amended—

8 (A) in subsection (a), in the matter pre-  
9 ceding paragraph (1), by inserting “or notice”  
10 after “prescribe by regulation”;

11 (B) in subsection (c), by inserting “and  
12 subsection (g)” before the first comma; and

13 (C) by adding at the end the following new  
14 subsection:

15 “(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE  
16 RATES FOR CERTAIN PROPERTIES IN NEWLY MAPPED  
17 AREAS.—

18 “(1) 5-YEAR PHASE-IN PERIOD.—Notwith-  
19 standing subsection (c) or any other provision of law  
20 relating to chargeable risk premium rates for flood  
21 insurance coverage under this title, in the case of  
22 any area that was not previously designated as an  
23 area having special flood hazards and that, pursuant  
24 to any issuance, revision, updating, or other change  
25 in flood insurance maps, becomes designated as such

1 an area, during the 5-year period that begins, except  
2 as provided in paragraph (2), upon the date that  
3 such maps, as issued, revised, updated, or otherwise  
4 changed, become effective, the chargeable premium  
5 rate for flood insurance under this title with respect  
6 to any covered property that is located within such  
7 area shall be the rate described in paragraph (3).

8 “(2) APPLICABILITY TO PREFERRED RISK RATE  
9 AREAS.—In the case of any area described in para-  
10 graph (1) that consists of or includes an area that,  
11 as of date of the effectiveness of the flood insurance  
12 maps for such area referred to in paragraph (1) as  
13 so issued, revised, updated, or changed, is eligible  
14 for any reason for preferred risk rate method pre-  
15 miums for flood insurance coverage and was eligible  
16 for such premiums as of the enactment of the Flood  
17 Insurance Reform Act of 2012, the 5-year period re-  
18 ferred to in paragraph (1) for such area eligible for  
19 preferred risk rate method premiums shall begin  
20 upon the expiration of the period during which such  
21 area is eligible for such preferred risk rate method  
22 premiums.

23 “(3) PHASE-IN OF FULL ACTUARIAL RATES.—  
24 With respect to any area described in paragraph (1),  
25 the chargeable risk premium rate for flood insurance

1 under this title for a covered property that is located  
2 in such area shall be—

3 “(A) for the first year of the 5-year period  
4 referred to in paragraph (1), the greater of—

5 “(i) 20 percent of the chargeable risk  
6 premium rate otherwise applicable under  
7 this title to the property; and

8 “(ii) in the case of any property that,  
9 as of the beginning of such first year, is el-  
10 ible for preferred risk rate method pre-  
11 miums for flood insurance coverage, such  
12 preferred risk rate method premium for  
13 the property;

14 “(B) for the second year of such 5-year pe-  
15 riod, 40 percent of the chargeable risk premium  
16 rate otherwise applicable under this title to the  
17 property;

18 “(C) for the third year of such 5-year pe-  
19 riod, 60 percent of the chargeable risk premium  
20 rate otherwise applicable under this title to the  
21 property;

22 “(D) for the fourth year of such 5-year pe-  
23 riod, 80 percent of the chargeable risk premium  
24 rate otherwise applicable under this title to the  
25 property; and

1           “(E) for the fifth year of such 5-year pe-  
2           riod, 100 percent of the chargeable risk pre-  
3           mium rate otherwise applicable under this title  
4           to the property.

5           “(4) COVERED PROPERTIES.—For purposes of  
6           the subsection, the term ‘covered property’ means  
7           any residential property occupied by its owner or a  
8           bona fide tenant as a primary residence.”.

9           (2) REGULATION OR NOTICE.—The Adminis-  
10          trator of the Federal Emergency Management Agen-  
11          cy shall issue an interim final rule or notice to im-  
12          plement this subsection and the amendments made  
13          by this subsection as soon as practicable after the  
14          date of the enactment of this Act.

15          (c) PHASE-IN OF ACTUARIAL RATES FOR CERTAIN  
16          PROPERTIES.—

17               (1) IN GENERAL.—Section 1308(c) of the Na-  
18          tional Flood Insurance Act of 1968 (42 U.S.C.  
19          4015(c)) is amended—

20                       (A) by redesignating paragraph (2) as  
21                       paragraph (7); and

22                       (B) by inserting after paragraph (1) the  
23                       following new paragraphs:

24                       “(2) COMMERCIAL PROPERTIES.—Any nonresi-  
25                       dential property.

1           “(3) SECOND HOMES AND VACATION HOMES.—  
2           Any residential property that is not the primary res-  
3           idence of any individual.

4           “(4) HOMES SOLD TO NEW OWNERS.—Any sin-  
5           gle family property that—

6                   “(A) has been constructed or substantially  
7                   improved and for which such construction or  
8                   improvement was started, as determined by the  
9                   Administrator, before December 31, 1974, or  
10                  before the effective date of the initial rate map  
11                  published by the Administrator under para-  
12                  graph (2) of section 1360(a) for the area in  
13                  which such property is located, whichever is  
14                  later; and

15                   “(B) is purchased after the effective date  
16                   of this paragraph, pursuant to section  
17                   345(c)(3)(A) of the Flood Insurance Reform  
18                   Act of 2012.

19           “(5) HOMES DAMAGED OR IMPROVED.—Any  
20           property that, on or after the date of the enactment  
21           of the Flood Insurance Reform Act of 2012, has ex-  
22           perienced or sustained—

23                   “(A) substantial flood damage exceeding  
24                   50 percent of the fair market value of such  
25                   property; or



1           “(B) substantial improvement exceeding  
2           30 percent of the fair market value of such  
3           property.

4           “(6) HOMES WITH MULTIPLE CLAIMS.—Any se-  
5           vere repetitive loss property (as such term is defined  
6           in section 1366(j)).”.

7           (2) TECHNICAL AMENDMENTS.—Section 1308  
8           of the National Flood Insurance Act of 1968 (42  
9           U.S.C. 4015) is amended—

10           (A) in subsection (c)—

11           (i) in the matter preceding paragraph  
12           (1), by striking “the limitations provided  
13           under paragraphs (1) and (2)” and insert-  
14           ing “subsection (e)”; and

15           (ii) in paragraph (1), by striking “,  
16           except” and all that follows through “sub-  
17           section (e)”; and

18           (B) in subsection (e), by striking “para-  
19           graph (2) or (3)” and inserting “paragraph  
20           (7)”.

21           (3) EFFECTIVE DATE AND TRANSITION.—

22           (A) EFFECTIVE DATE.—The amendments  
23           made by paragraphs (1) and (2) shall apply be-  
24           ginning upon the expiration of the 12-month  
25           period that begins on the date of the enactment

1 of this Act, except as provided in subparagraph  
2 (B) of this paragraph.

3 (B) TRANSITION FOR PROPERTIES COV-  
4 ERED BY FLOOD INSURANCE UPON EFFECTIVE  
5 DATE.—

6 (i) INCREASE OF RATES OVER TIME.—

7 In the case of any property described in  
8 paragraph (2), (3), (4), (5), or (6) of sec-  
9 tion 1308(c) of the National Flood Insur-  
10 ance Act of 1968, as amended by para-  
11 graph (1) of this subsection, that, as of the  
12 effective date under subparagraph (A) of  
13 this paragraph, is covered under a policy  
14 for flood insurance made available under  
15 the national flood insurance program for  
16 which the chargeable premium rates are  
17 less than the applicable estimated risk pre-  
18 mium rate under section 1307(a)(1) of  
19 such Act for the area in which the prop-  
20 erty is located, the Administrator of the  
21 Federal Emergency Management Agency  
22 shall increase the chargeable premium  
23 rates for such property over time to such  
24 applicable estimated risk premium rate  
25 under section 1307(a)(1).

1 (ii) AMOUNT OF ANNUAL INCREASE.—

2 Such increase shall be made by increasing  
3 the chargeable premium rates for the prop-  
4 erty (after application of any increase in  
5 the premium rates otherwise applicable to  
6 such property), once during the 12-month  
7 period that begins upon the effective date  
8 under subparagraph (A) of this paragraph  
9 and once every 12 months thereafter until  
10 such increase is accomplished, by 20 per-  
11 cent (or such lesser amount as may be nec-  
12 essary so that the chargeable rate does not  
13 exceed such applicable estimated risk pre-  
14 mium rate or to comply with clause (iii)).

15 (iii) PROPERTIES SUBJECT TO PHASE-

16 IN AND ANNUAL INCREASES.—In the case  
17 of any pre-FIRM property (as such term is  
18 defined in section 578(b) of the National  
19 Flood Insurance Reform Act of 1974), the  
20 aggregate increase, during any 12-month  
21 period, in the chargeable premium rate for  
22 the property that is attributable to this  
23 subparagraph or to an increase described  
24 in section 1308(e) of the National Flood

1 Insurance Act of 1968 may not exceed 20  
2 percent.

3 (iv) FULL ACTUARIAL RATES.—The  
4 provisions of paragraphs (2), (3), (4), (5),  
5 and (6) of such section 1308(c) shall apply  
6 to such a property upon the accomplish-  
7 ment of the increase under this subpara-  
8 graph and thereafter.

9 (d) PROHIBITION OF EXTENSION OF SUBSIDIZED  
10 RATES TO LAPSED POLICIES.—Section 1308 of the Na-  
11 tional Flood Insurance Act of 1968 (42 U.S.C. 4015), as  
12 amended by the preceding provisions of this subtitle, is  
13 further amended—

14 (1) in subsection (e), by inserting “or sub-  
15 section (h)” after “subsection (c)”; and

16 (2) by adding at the end the following new sub-  
17 section:

18 “(h) PROHIBITION OF EXTENSION OF SUBSIDIZED  
19 RATES TO LAPSED POLICIES.—Notwithstanding any  
20 other provision of law relating to chargeable risk premium  
21 rates for flood insurance coverage under this title, the Ad-  
22 ministrators shall not provide flood insurance coverage  
23 under this title for any property for which a policy for  
24 such coverage for the property has previously lapsed in  
25 coverage as a result of the deliberate choice of the holder

1 of such policy, at a rate less than the applicable estimated  
2 risk premium rates for the area (or subdivision thereof)  
3 in which such property is located.”.

4 (e) RECOGNITION OF STATE AND LOCAL FUNDING  
5 FOR CONSTRUCTION, RECONSTRUCTION, AND IMPROVE-  
6 MENT OF FLOOD PROTECTION SYSTEMS IN DETERMINA-  
7 TION OF RATES.—

8 (1) IN GENERAL.—Section 1307 of the Na-  
9 tional Flood Insurance Act of 1968 (42 U.S.C.  
10 4014) is amended—

11 (A) in subsection (e)—

12 (i) in the first sentence, by striking  
13 “construction of a flood protection system”  
14 and inserting “construction, reconstruc-  
15 tion, or improvement of a flood protection  
16 system (without respect to the level of Fed-  
17 eral investment or participation)”; and

18 (ii) in the second sentence—

19 (I) by striking “construction of a  
20 flood protection system” and inserting  
21 “construction, reconstruction, or im-  
22 provement of a flood protection sys-  
23 tem”; and

1 (II) by inserting “based on the  
2 present value of the completed sys-  
3 tem” after “has been expended”; and

4 (B) in subsection (f)—

5 (i) in the first sentence in the matter  
6 preceding paragraph (1), by inserting  
7 “(without respect to the level of Federal  
8 investment or participation)” before the  
9 period at the end;

10 (ii) in the third sentence in the matter  
11 preceding paragraph (1), by inserting “,  
12 whether coastal or riverine,” after “special  
13 flood hazard”; and

14 (iii) in paragraph (1), by striking “a  
15 Federal agency in consultation with the  
16 local project sponsor” and inserting “the  
17 entity or entities that own, operate, main-  
18 tain, or repair such system”.

19 (2) REGULATIONS.—The Administrator of the  
20 Federal Emergency Management Agency shall pro-  
21 mulgate regulations to implement this subsection  
22 and the amendments made by this subsection as  
23 soon as practicable, but not more than 18 months  
24 after the date of the enactment of this Act. Para-  
25 graph (3) may not be construed to annul, alter, af-

1       fect, authorize any waiver of, or establish any excep-  
2       tion to, the requirement under the preceding sen-  
3       tence.

4       **SEC. 346. TECHNICAL MAPPING ADVISORY COUNCIL.**

5       (a) ESTABLISHMENT.—There is established a council  
6       to be known as the Technical Mapping Advisory Council  
7       (in this section referred to as the “Council”).

8       (b) MEMBERSHIP.—

9           (1) IN GENERAL.—The Council shall consist  
10       of—

11           (A) the Administrator of the Federal  
12           Emergency Management Agency (in this section  
13           referred to as the “Administrator”), or the des-  
14           ignee thereof;

15           (B) the Director of the United States Geo-  
16           logical Survey of the Department of the Inte-  
17           rior, or the designee thereof;

18           (C) the Under Secretary of Commerce for  
19           Oceans and Atmosphere, or the designee there-  
20           of;

21           (D) the commanding officer of the United  
22           States Army Corps of Engineers, or the des-  
23           ignee thereof;

1 (E) the chief of the Natural Resources  
2 Conservation Service of the Department of Ag-  
3 riculture, or the designee thereof;

4 (F) the Director of the United States Fish  
5 and Wildlife Service of the Department of the  
6 Interior, or the designee thereof;

7 (G) the Assistant Administrator for Fish-  
8 eries of the National Oceanic and Atmospheric  
9 Administration of the Department of Com-  
10 merce, or the designee thereof; and

11 (H) 14 additional members to be appointed  
12 by the Administrator of the Federal Emergency  
13 Management Agency, who shall be—

14 (i) an expert in data management;

15 (ii) an expert in real estate;

16 (iii) an expert in insurance;

17 (iv) a member of a recognized regional  
18 flood and storm water management organi-  
19 zation;

20 (v) a representative of a State emer-  
21 gency management agency or association  
22 or organization for such agencies;

23 (vi) a member of a recognized profes-  
24 sional surveying association or organiza-  
25 tion;



1 (vii) a member of a recognized profes-  
2 sional mapping association or organization;

3 (viii) a member of a recognized pro-  
4 fessional engineering association or organi-  
5 zation;

6 (ix) a member of a recognized profes-  
7 sional association or organization rep-  
8 resenting flood hazard determination firms;

9 (x) a representative of State national  
10 flood insurance coordination offices;

11 (xi) representatives of two local gov-  
12 ernments, at least one of whom is a local  
13 levee flood manager or executive, des-  
14 ignated by the Federal Emergency Man-  
15 agement Agency as Cooperating Technical  
16 Partners; and

17 (xii) representatives of two State gov-  
18 ernments designated by the Federal Emer-  
19 gency Management Agency as Cooperating  
20 Technical States.

21 (2) QUALIFICATIONS.—Members of the Council  
22 shall be appointed based on their demonstrated  
23 knowledge and competence regarding surveying, car-  
24 tography, remote sensing, geographic information  
25 systems, or the technical aspects of preparing and

1 using flood insurance rate maps. In appointing  
2 members under paragraph (1)(H), the Administrator  
3 shall ensure that the membership of the Council has  
4 a balance of Federal, State, local, and private mem-  
5 bers, and includes an adequate number of represent-  
6 atives from the States with coastline on the Gulf of  
7 Mexico and other States containing areas identified  
8 by the Administrator of the Federal Emergency  
9 Management Agency as at high-risk for flooding or  
10 special flood hazard areas.

11 (c) DUTIES.—

12 (1) NEW MAPPING STANDARDS.—Not later than  
13 the expiration of the 12-month period beginning  
14 upon the date of the enactment of this Act, the  
15 Council shall develop and submit to the Adminis-  
16 trator and the Congress proposed new mapping  
17 standards for 100-year flood insurance rate maps  
18 used under the national flood insurance program  
19 under the National Flood Insurance Act of 1968. In  
20 developing such proposed standards the Council  
21 shall—

22 (A) ensure that the flood insurance rate  
23 maps reflect true risk, including graduated risk  
24 that better reflects the financial risk to each  
25 property; such reflection of risk should be at

1 the smallest geographic level possible (but not  
2 necessarily property-by-property) to ensure that  
3 communities are mapped in a manner that  
4 takes into consideration different risk levels  
5 within the community;

6 (B) ensure the most efficient generation,  
7 display, and distribution of flood risk data,  
8 models, and maps where practicable through  
9 dynamic digital environments using spatial  
10 database technology and the Internet;

11 (C) ensure that flood insurance rate maps  
12 reflect current hydrologic and hydraulic data,  
13 current land use, and topography, incorporating  
14 the most current and accurate ground and  
15 bathymetric elevation data;

16 (D) determine the best ways to include in  
17 such flood insurance rate maps levees, decerti-  
18 fied levees, and areas located below dams, in-  
19 cluding determining a methodology for ensuring  
20 that decertified levees and other protections are  
21 included in flood insurance rate maps and their  
22 corresponding flood zones reflect the level of  
23 protection conferred;

24 (E) consider how to incorporate restored  
25 wetlands and other natural buffers into flood

1 insurance rate maps, which may include wet-  
2 lands, groundwater recharge areas, erosion  
3 zones, meander belts, endangered species habi-  
4 tat, barrier islands and shoreline buffer fea-  
5 tures, riparian forests, and other features;

6 (F) consider whether to use vertical posi-  
7 tioning (as defined by the Administrator) for  
8 flood insurance rate maps;

9 (G) ensure that flood insurance rate maps  
10 differentiate between a property that is located  
11 in a flood zone and a structure located on such  
12 property that is not at the same risk level for  
13 flooding as such property due to the elevation  
14 of the structure;

15 (H) ensure that flood insurance rate maps  
16 take into consideration the best scientific data  
17 and potential future conditions (including pro-  
18 jections for sea level rise); and

19 (I) consider how to incorporate the new  
20 standards proposed pursuant to this paragraph  
21 in existing mapping efforts.

22 (2) ONGOING DUTIES.—The Council shall, on  
23 an ongoing basis, review the mapping protocols de-  
24 veloped pursuant to paragraph (1), and make rec-  
25 ommendations to the Administrator when the Coun-

1 cil determines that mapping protocols should be al-  
2 tered.

3 (3) MEETINGS.—In carrying out its duties  
4 under this section, the Council shall consult with  
5 stakeholders through at least 4 public meetings an-  
6 nually, and shall seek input of all stakeholder inter-  
7 ests including State and local representatives, envi-  
8 ronmental and conservation organizations, insurance  
9 industry representatives, advocacy groups, planning  
10 organizations, and mapping organizations.

11 (d) PROHIBITION ON COMPENSATION.—Members of  
12 the Council shall receive no additional compensation by  
13 reason of their service on the Council.

14 (e) CHAIRPERSON.—The Administrator shall serve as  
15 the Chairperson of the Council.

16 (f) STAFF.—

17 (1) FEMA.—Upon the request of the Council,  
18 the Administrator may detail, on a nonreimbursable  
19 basis, personnel of the Federal Emergency Manage-  
20 ment Agency to assist the Council in carrying out its  
21 duties.

22 (2) OTHER FEDERAL AGENCIES.—Upon request  
23 of the Council, any other Federal agency that is a  
24 member of the Council may detail, on a non-reim-

1        bursable basis, personnel to assist the Council in  
2        carrying out its duties.

3        (g) POWERS.—In carrying out this section, the Coun-  
4        cil may hold hearings, receive evidence and assistance, pro-  
5        vide information, and conduct research, as the Council  
6        considers appropriate.

7        (h) TERMINATION.—The Council shall terminate  
8        upon the expiration of the 5-year period beginning on the  
9        date of the enactment of this Act.

10       (i) MORATORIUM ON FLOOD MAP CHANGES.—

11            (1) MORATORIUM.—Except as provided in para-  
12            graph (2) and notwithstanding any other provision  
13            of this subtitle, the National Flood Insurance Act of  
14            1968, or the Flood Disaster Protection Act of 1973,  
15            during the period beginning upon the date of the en-  
16            actment of this Act and ending upon the submission  
17            by the Council to the Administrator and the Con-  
18            gress of the proposed new mapping standards re-  
19            quired under subsection (c)(1), the Administrator  
20            may not make effective any new or updated rate  
21            maps for flood insurance coverage under the na-  
22            tional flood insurance program that were not in ef-  
23            fect for such program as of such date of enactment,  
24            or otherwise revise, update, or change the flood in-

1       surance rate maps in effect for such program as of  
2       such date.

3               (2) LETTERS OF MAP CHANGE.—During the pe-  
4       riod described in paragraph (1), the Administrator  
5       may revise, update, and change the flood insurance  
6       rate maps in effect for the national flood insurance  
7       program only pursuant to a letter of map change  
8       (including a letter of map amendment, letter of map  
9       revision, and letter of map revision based on fill).

10 **SEC. 347. FEMA INCORPORATION OF NEW MAPPING PROTO-**  
11 **COLS.**

12       (a) NEW RATE MAPPING STANDARDS.—Not later  
13 than the expiration of the 6-month period beginning upon  
14 submission by the Technical Mapping Advisory Council  
15 under section 346 of the proposed new mapping standards  
16 for flood insurance rate maps used under the national  
17 flood insurance program developed by the Council pursu-  
18 ant to section 346(c), the Administrator of the Federal  
19 Emergency Management Agency (in this section referred  
20 to as the “Administrator”) shall establish new standards  
21 for such rate maps based on such proposed new standards  
22 and the recommendations of the Council.

23       (b) REQUIREMENTS.—The new standards for flood  
24 insurance rate maps established by the Administrator pur-  
25 suant to subsection (a) shall—

1           (1) delineate and include in any such rate  
2 maps—

3           (A) all areas located within the 100-year  
4 flood plain; and

5           (B) areas subject to graduated and other  
6 risk levels, to the maximum extent possible;

7           (2) ensure that any such rate maps—

8           (A) include levees, including decertified lev-  
9 ees, and the level of protection they confer;

10           (B) reflect current land use and topog-  
11 raphy and incorporate the most current and ac-  
12 curate ground level data;

13           (C) take into consideration the impacts  
14 and use of fill and the flood risks associated  
15 with altered hydrology;

16           (D) differentiate between a property that  
17 is located in a flood zone and a structure lo-  
18 cated on such property that is not at the same  
19 risk level for flooding as such property due to  
20 the elevation of the structure;

21           (E) identify and incorporate natural fea-  
22 tures and their associated flood protection bene-  
23 fits into mapping and rates; and

24           (F) identify, analyze, and incorporate the  
25 impact of significant changes to building and



1 development throughout any river or costal  
2 water system, including all tributaries, which  
3 may impact flooding in areas downstream; and  
4 (3) provide that such rate maps are developed  
5 on a watershed basis.

6 (c) REPORT.—If, in establishing new standards for  
7 flood insurance rate maps pursuant to subsection (a) of  
8 this section, the Administrator does not implement all of  
9 the recommendations of the Council made under the pro-  
10 posed new mapping standards developed by the Council  
11 pursuant to section 346(c), upon establishment of the new  
12 standards the Administrator shall submit a report to the  
13 Committee on Financial Services of the House of Rep-  
14 resentatives and the Committee on Banking, Housing, and  
15 Urban Affairs of the Senate specifying which such rec-  
16 ommendations were not adopted and explaining the rea-  
17 sons such recommendations were not adopted.

18 (d) IMPLEMENTATION.—The Administrator shall, not  
19 later than the expiration of the 6-month period beginning  
20 upon establishment of the new standards for flood insur-  
21 ance rate maps pursuant to subsection (a) of this section,  
22 commence use of the new standards and updating of flood  
23 insurance rate maps in accordance with the new stand-  
24 ards. Not later than the expiration of the 10-year period  
25 beginning upon the establishment of such new standards,

1 the Administrator shall complete updating of all flood in-  
2 surance rate maps in accordance with the new standards,  
3 subject to the availability of sufficient amounts for such  
4 activities provided in appropriation Acts.

5 (e) TEMPORARY SUSPENSION OF MANDATORY PUR-  
6 CHASE REQUIREMENT FOR CERTAIN PROPERTIES.—

7 (1) SUBMISSION OF ELEVATION CERTIFI-  
8 CATE.—Subject to paragraphs (2) and (3) of this  
9 subsection, subsections (a), (b), and (e) of section  
10 102 of the Flood Disaster Protection Act of 1973  
11 (42 U.S.C. 4012a), and section 202(a) of such Act,  
12 shall not apply to a property located in an area des-  
13 ignated as having a special flood hazard if the owner  
14 of such property submits to the Administrator an  
15 elevation certificate for such property showing that  
16 the lowest level of the primary residence on such  
17 property is at an elevation that is at least three feet  
18 higher than the elevation of the 100-year flood plain.

19 (2) REVIEW OF CERTIFICATE.—The Adminis-  
20 trator shall accept as conclusive each elevation cer-  
21 tificate submitted under paragraph (1) unless the  
22 Administrator conducts a subsequent elevation sur-  
23 vey and determines that the lowest level of the pri-  
24 mary residence on the property in question is not at  
25 an elevation that is at least three feet higher than

1 the elevation of the 100-year flood plain. The Ad-  
2 ministrator shall provide any such subsequent ele-  
3 vation survey to the owner of such property.

4 (3) DETERMINATIONS FOR PROPERTIES ON  
5 BORDERS OF SPECIAL FLOOD HAZARD AREAS.—

6 (A) EXPEDITED DETERMINATION.—In the  
7 case of any survey for a property submitted to  
8 the Administrator pursuant to paragraph (1)  
9 showing that a portion of the property is lo-  
10 cated within an area having special flood haz-  
11 ards and that a structure located on the prop-  
12 erty is not located within such area having spe-  
13 cial flood hazards, the Administrator shall expe-  
14 ditiously process any request made by an owner  
15 of the property for a determination pursuant to  
16 paragraph (2) or a determination of whether  
17 the structure is located within the area having  
18 special flood hazards.

19 (B) PROHIBITION OF FEE.—If the Admin-  
20 istrator determines pursuant to subparagraph  
21 (A) that the structure on the property is not lo-  
22 cated within the area having special flood haz-  
23 ards, the Administrator shall not charge a fee  
24 for reviewing the flood hazard data and shall

1 not require the owner to provide any additional  
2 elevation data.

3 (C) SIMPLIFICATION OF REVIEW PROC-  
4 ESS.—The Administrator shall collaborate with  
5 private sector flood insurers to simplify the re-  
6 view process for properties described in sub-  
7 paragraph (A) and to ensure that the review  
8 process provides for accurate determinations.

9 (4) TERMINATION OF AUTHORITY.—This sub-  
10 section shall cease to apply to a property on the date  
11 on which the Administrator updates the flood insur-  
12 ance rate map that applies to such property in ac-  
13 cordance with the requirements of subsection (d).

14 **SEC. 348. TREATMENT OF LEVEES.**

15 Section 1360 of the National Flood Insurance Act of  
16 1968 (42 U.S.C. 4101) is amended by adding at the end  
17 the following new subsection:

18 “(k) TREATMENT OF LEVEES.—The Administrator  
19 may not issue flood insurance maps, or make effective up-  
20 dated flood insurance maps, that omit or disregard the  
21 actual protection afforded by an existing levee, floodwall,  
22 pump or other flood protection feature, regardless of the  
23 accreditation status of such feature.”.

1 **SEC. 349. PRIVATIZATION INITIATIVES.**

2 (a) FEMA AND GAO REPORTS.—Not later than the  
3 expiration of the 18-month period beginning on the date  
4 of the enactment of this Act, the Administrator of the  
5 Federal Emergency Management Agency and the Comp-  
6 troller General of the United States shall each conduct a  
7 separate study to assess a broad range of options, meth-  
8 ods, and strategies for privatizing the national flood insur-  
9 ance program and shall each submit a report to the Com-  
10 mittee on Financial Services of the House of Representa-  
11 tives and the Committee on Banking, Housing, and Urban  
12 Affairs of the Senate with recommendations for the best  
13 manner to accomplish such privatization.

14 (b) PRIVATE RISK-MANAGEMENT INITIATIVES.—

15 (1) AUTHORITY.—The Administrator of the  
16 Federal Emergency Management Agency may carry  
17 out such private risk-management initiatives under  
18 the national flood insurance program as the Admin-  
19 istrator considers appropriate to determine the ca-  
20 pacity of private insurers, reinsurers, and financial  
21 markets to assist communities, on a voluntary basis  
22 only, in managing the full range of financial risks  
23 associated with flooding.

24 (2) ASSESSMENT.—Not later than the expira-  
25 tion of the 12-month period beginning on the date  
26 of the enactment of this Act, the Administrator shall

1 assess the capacity of the private reinsurance, cap-  
2 ital, and financial markets by seeking proposals to  
3 assume a portion of the program's insurance risk  
4 and submit to the Congress a report describing the  
5 response to such request for proposals and the re-  
6 sults of such assessment.

7 (3) PROTOCOL FOR RELEASE OF DATA.—The  
8 Administrator shall develop a protocol to provide for  
9 the release of data sufficient to conduct the assess-  
10 ment required under paragraph (2).

11 (c) REINSURANCE.—The National Flood Insurance  
12 Act of 1968 is amended—

13 (1) in section 1331(a)(2) (42 U.S.C.  
14 4051(a)(2)), by inserting “, including as reinsurance  
15 of insurance coverage provided by the flood insur-  
16 ance program” before “, on such terms”;

17 (2) in section 1332(c)(2) (42 U.S.C.  
18 4052(c)(2)), by inserting “or reinsurance” after  
19 “flood insurance coverage”;

20 (3) in section 1335(a) (42 U.S.C. 4055(a))—

21 (A) by inserting “(1)” after “(a)”; and

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

24 “(2) The Administrator is authorized to secure rein-  
25 surance coverage of coverage provided by the flood insur-

1 ance program from private market insurance, reinsurance,  
2 and capital market sources at rates and on terms deter-  
3 mined by the Administrator to be reasonable and appro-  
4 priate in an amount sufficient to maintain the ability of  
5 the program to pay claims and that minimizes the likeli-  
6 hood that the program will utilize the borrowing authority  
7 provided under section 1309.”;

8 (4) in section 1346(a) (12 U.S.C. 4082(a))—

9 (A) in the matter preceding paragraph (1),  
10 by inserting “, or for purposes of securing rein-  
11 surance of insurance coverage provided by the  
12 program,” before “of any or all of”;

13 (B) in paragraph (1)—

14 (i) by striking “estimating” and in-  
15 serting “Estimating”; and

16 (ii) by striking the semicolon at the  
17 end and inserting a period;

18 (C) in paragraph (2)—

19 (i) by striking “receiving” and insert-  
20 ing “Receiving”; and

21 (ii) by striking the semicolon at the  
22 end and inserting a period;

23 (D) in paragraph (3)—

24 (i) by striking “making” and inserting  
25 “Making”; and

1 (ii) by striking “; and” and inserting  
2 a period;

3 (E) in paragraph (4)—

4 (i) by striking “otherwise” and insert-  
5 ing “Otherwise”; and

6 (ii) by redesignating such paragraph  
7 as paragraph (5); and

8 (F) by inserting after paragraph (3) the  
9 following new paragraph:

10 “(4) Placing reinsurance coverage on insurance  
11 provided by such program.”; and

12 (5) in section 1370(a)(3) (42 U.S.C.  
13 4121(a)(3)), by inserting before the semicolon at the  
14 end the following: “, is subject to the reporting re-  
15 quirements of the Securities Exchange Act of 1934,  
16 pursuant to section 13(a) or 15(d) of such Act (15  
17 U.S.C. 78m(a), 78o(d)), or is authorized by the Ad-  
18 ministrator to assume reinsurance on risks insured  
19 by the flood insurance program”.

20 (d) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

21 (1) ASSESSMENT.—Not later than September  
22 30 of each year, the Administrator of the Federal  
23 Emergency Management Agency shall conduct an  
24 assessment of the claims-paying ability of the na-  
25 tional flood insurance program, including the pro-



1 gram’s utilization of private sector reinsurance and  
2 reinsurance equivalents, with and without reliance  
3 on borrowing authority under section 1309 of the  
4 National Flood Insurance Act of 1968 (42 U.S.C.  
5 4016). In conducting the assessment, the Adminis-  
6 trator shall take into consideration regional con-  
7 centrations of coverage written by the program, peak  
8 flood zones, and relevant mitigation measures.

9 (2) REPORT.—The Administrator shall submit  
10 a report to the Congress of the results of each such  
11 assessment, and make such report available to the  
12 public, not later than 30 days after completion of  
13 the assessment.

14 **SEC. 350. FEMA ANNUAL REPORT ON INSURANCE PRO-**  
15 **GRAM.**

16 Section 1320 of the National Flood Insurance Act of  
17 1968 (42 U.S.C. 4027) is amended—

18 (1) in the section heading, by striking “REPORT  
19 TO THE PRESIDENT” and inserting “ANNUAL RE-  
20 PORT TO CONGRESS”;

21 (2) in subsection (a)—

22 (A) by striking “biennially”;

23 (B) by striking “the President for submis-  
24 sion to”; and

1 (C) by inserting “not later than June 30  
2 of each year” before the period at the end;

3 (3) in subsection (b), by striking “biennial” and  
4 inserting “annual”; and

5 (4) by adding at the end the following new sub-  
6 section:

7 “(c) FINANCIAL STATUS OF PROGRAM.—The report  
8 under this section for each year shall include information  
9 regarding the financial status of the national flood insur-  
10 ance program under this title, including a description of  
11 the financial status of the National Flood Insurance Fund  
12 and current and projected levels of claims, premium re-  
13 cepts, expenses, and borrowing under the program.”.

14 **SEC. 351. MITIGATION ASSISTANCE.**

15 (a) MITIGATION ASSISTANCE GRANTS.—Section  
16 1366 of the National Flood Insurance Act of 1968 (42  
17 U.S.C. 4104c) is amended—

18 (1) in subsection (a), by striking the last sen-  
19 tence and inserting the following: “Such financial  
20 assistance shall be made available—

21 “(1) to States and communities in the form of  
22 grants under this section for carrying out mitigation  
23 activities;

24 “(2) to States and communities in the form of  
25 grants under this section for carrying out mitigation

1 activities that reduce flood damage to severe repet-  
2 itive loss structures; and

3 “(3) to property owners in the form of direct  
4 grants under this section for carrying out mitigation  
5 activities that reduce flood damage to individual  
6 structures for which 2 or more claim payments for  
7 losses have been made under flood insurance cov-  
8 erage under this title if the Administrator, after con-  
9 sultation with the State and community, determines  
10 that neither the State nor community in which such  
11 a structure is located has the capacity to manage  
12 such grants.”.

13 (2) by striking subsection (b);

14 (3) in subsection (c)—

15 (A) by striking “flood risk” and inserting  
16 “multi-hazard”;

17 (B) by striking “provides protection  
18 against” and inserting “examines reduction of”;

19 and

20 (C) by redesignating such subsection as  
21 subsection (b);

22 (4) by striking subsection (d);

23 (5) in subsection (e)—

24 (A) in paragraph (1), by striking the para-  
25 graph designation and all that follows through

1           the end of the first sentence and inserting the  
2           following:

3           “(1) REQUIREMENT OF CONSISTENCY WITH AP-  
4           PROVED MITIGATION PLAN.—Amounts provided  
5           under this section may be used only for mitigation  
6           activities that are consistent with mitigation plans  
7           that are approved by the Administrator and identi-  
8           fied under subparagraph (4).”;

9                       (B) by striking paragraphs (2), (3), and  
10           (4) and inserting the following new paragraphs:

11           “(2) REQUIREMENTS OF TECHNICAL FEASI-  
12           BILITY, COST EFFECTIVENESS, AND INTEREST OF  
13           NFIF.—The Administrator may approve only mitiga-  
14           tion activities that the Administrator determines are  
15           technically feasible and cost-effective and in the in-  
16           terest of, and represent savings to, the National  
17           Flood Insurance Fund. In making such determina-  
18           tions, the Administrator shall take into consideration  
19           recognized benefits that are difficult to quantify.

20           “(3) PRIORITY FOR MITIGATION ASSISTANCE.—  
21           In providing grants under this section for mitigation  
22           activities, the Administrator shall give priority for  
23           funding to activities that the Administrator deter-  
24           mines will result in the greatest savings to the Na-

1 tional Flood Insurance Fund, including activities  
2 for—

3 “(A) severe repetitive loss structures;

4 “(B) repetitive loss structures; and

5 “(C) other subsets of structures as the Ad-  
6 ministrators may establish.”;

7 (C) in paragraph (5)—

8 (i) by striking all of the matter that  
9 precedes subparagraph (A) and inserting  
10 the following:

11 “(4) ELIGIBLE ACTIVITIES.—Eligible activities  
12 may include—”;

13 (ii) by striking subparagraphs (E) and  
14 (H);

15 (iii) by redesignating subparagraphs  
16 (D), (F), and (G) as subparagraphs (E),  
17 (G), and (H);

18 (iv) by inserting after subparagraph  
19 (C) the following new subparagraph:

20 “(D) elevation, relocation, and  
21 floodproofing of utilities (including equipment  
22 that serve structures);”;

23 (v) by inserting after subparagraph  
24 (E), as so redesignated by clause (iii) of

1           this subparagraph, the following new sub-  
2           paragraph:

3           “(F) the development or update of State,  
4           local, or Indian tribal mitigation plans which  
5           meet the planning criteria established by the  
6           Administrator, except that the amount from  
7           grants under this section that may be used  
8           under this subparagraph may not exceed  
9           \$50,000 for any mitigation plan of a State or  
10          \$25,000 for any mitigation plan of a local gov-  
11          ernment or Indian tribe;”;

12                   (vi) in subparagraph (H); as so redes-  
13                   ignated by clause (iii) of this subpara-  
14                   graph, by striking “and” at the end; and

15                   (vii) by adding at the end the fol-  
16                   lowing new subparagraphs:

17           “(I) other mitigation activities not de-  
18           scribed in subparagraphs (A) through (G) or  
19           the regulations issued under subparagraph (H),  
20           that are described in the mitigation plan of a  
21           State, community, or Indian tribe; and

22           “(J) personnel costs for State staff that  
23           provide technical assistance to communities to  
24           identify eligible activities, to develop grant ap-  
25           plications, and to implement grants awarded

1 under this section, not to exceed \$50,000 per  
2 State in any Federal fiscal year, so long as the  
3 State applied for and was awarded at least  
4 \$1,000,000 in grants available under this sec-  
5 tion in the prior Federal fiscal year; the re-  
6 quirements of subsections (d)(1) and (d)(2)  
7 shall not apply to the activity under this sub-  
8 paragraph.”;

9 (D) by adding at the end the following new  
10 paragraph:

11 “(6) ELIGIBILITY OF DEMOLITION AND RE-  
12 BUILDING OF PROPERTIES.—The Administrator  
13 shall consider as an eligible activity the demolition  
14 and rebuilding of properties to at least base flood  
15 elevation or greater, if required by the Administrator  
16 or if required by any State regulation or local ordi-  
17 nance, and in accordance with criteria established by  
18 the Administrator.”; and

19 (E) by redesignating such subsection as  
20 subsection (c);

21 (6) by striking subsections (f), (g), and (h) and  
22 inserting the following new subsection:

23 “(d) MATCHING REQUIREMENT.—The Administrator  
24 may provide grants for eligible mitigation activities as fol-  
25 lows:

1           “(1) SEVERE REPETITIVE LOSS STRUCTURES.—  
2           In the case of mitigation activities to severe repet-  
3           itive loss structures, in an amount up to 100 percent  
4           of all eligible costs.

5           “(2) REPETITIVE LOSS STRUCTURES.—In the  
6           case of mitigation activities to repetitive loss struc-  
7           tures, in an amount up to 90 percent of all eligible  
8           costs.

9           “(3) OTHER MITIGATION ACTIVITIES.—In the  
10          case of all other mitigation activities, in an amount  
11          up to 75 percent of all eligible costs.”;

12          (7) in subsection (i)—

13                 (A) in paragraph (2)—

14                         (i) by striking “certified under sub-  
15                         section (g)” and inserting “required under  
16                         subsection (d)”;

17                         (ii) by striking “3 times the amount”  
18                         and inserting “the amount”;

19                 (B) by redesignating such subsection as  
20                 subsection (e);

21          (8) in subsection (j)—

22                 (A) by striking “Riegle Community Devel-  
23                 opment and Regulatory Improvement Act of  
24                 1994” and inserting “Flood Insurance Reform  
25                 Act of 2012”;



1                   (B) by redesignating such subsection as  
2                   subsection (f); and

3                   (9) by striking subsections (k) and (m) and in-  
4                   serting the following new subsections:

5                   “(g) FAILURE TO MAKE GRANT AWARD WITHIN 5  
6 YEARS.—For any application for a grant under this sec-  
7 tion for which the Administrator fails to make a grant  
8 award within 5 years of the date of application, the grant  
9 application shall be considered to be denied and any fund-  
10 ing amounts allocated for such grant applications shall re-  
11 main in the National Flood Mitigation Fund under section  
12 1367 of this title and shall be made available for grants  
13 under this section.

14                   “(h) LIMITATION ON FUNDING FOR MITIGATION AC-  
15 TIVITIES FOR SEVERE REPETITIVE LOSS STRUCTURES.—  
16 The amount used pursuant to section 1310(a)(8) in any  
17 fiscal year may not exceed \$40,000,000 and shall remain  
18 available until expended.

19                   “(i) DEFINITIONS.—For purposes of this section, the  
20 following definitions shall apply:

21                   “(1) COMMUNITY.—The term ‘community’  
22                   means—

23                   “(A) a political subdivision that—

1                   “(i) has zoning and building code ju-  
2                   risdiction over a particular area having  
3                   special flood hazards, and

4                   “(ii) is participating in the national  
5                   flood insurance program; or

6                   “(B) a political subdivision of a State, or  
7                   other authority, that is designated by political  
8                   subdivisions, all of which meet the requirements  
9                   of subparagraph (A), to administer grants for  
10                  mitigation activities for such political subdivi-  
11                  sions.

12                  “(2) REPETITIVE LOSS STRUCTURE.—The term  
13                  ‘repetitive loss structure’ has the meaning given  
14                  such term in section 1370.

15                  “(3) SEVERE REPETITIVE LOSS STRUCTURE.—  
16                  The term ‘severe repetitive loss structure’ means a  
17                  structure that—

18                         “(A) is covered under a contract for flood  
19                         insurance made available under this title; and

20                         “(B) has incurred flood-related damage—

21                                 “(i) for which 4 or more separate  
22                                 claims payments have been made under  
23                                 flood insurance coverage under this title,  
24                                 with the amount of each such claim ex-  
25                                 ceeding \$15,000, and with the cumulative

1 amount of such claims payments exceeding  
2 \$60,000; or

3 “(ii) for which at least 2 separate  
4 claims payments have been made under  
5 such coverage, with the cumulative amount  
6 of such claims exceeding the value of the  
7 insured structure.”.

8 (b) ELIMINATION OF GRANTS PROGRAM FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.—Chapter I of  
9 the National Flood Insurance Act of 1968 is amended by  
10 striking section 1323 (42 U.S.C. 4030).

12 (c) ELIMINATION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chapter  
13 III of the National Flood Insurance Act of 1968 is  
14 amended by striking section 1361A (42 U.S.C. 4102a).

16 (d) NATIONAL FLOOD INSURANCE FUND.—Section  
17 1310(a) of the National Flood Insurance Act of 1968 (42  
18 U.S.C. 4017(a)) is amended—

19 (1) in paragraph (7), by inserting “and” after  
20 the semicolon; and

21 (2) by striking paragraphs (8) and (9).

22 (e) NATIONAL FLOOD MITIGATION FUND.—Section  
23 1367 of the National Flood Insurance Act of 1968 (42  
24 U.S.C. 4104d) is amended—

25 (1) in subsection (b)—

1 (A) by striking paragraph (1) and insert-  
2 ing the following new paragraph:

3 “(1) in each fiscal year, from the National  
4 Flood Insurance Fund in amounts not exceeding  
5 \$90,000,000 to remain available until expended, of  
6 which—

7 “(A) not more than \$40,000,000 shall be  
8 available pursuant to subsection (a) of this sec-  
9 tion only for assistance described in section  
10 1366(a)(1);

11 “(B) not more than \$40,000,000 shall be  
12 available pursuant to subsection (a) of this sec-  
13 tion only for assistance described in section  
14 1366(a)(2); and

15 “(C) not more than \$10,000,000 shall be  
16 available pursuant to subsection (a) of this sec-  
17 tion only for assistance described in section  
18 1366(a)(3).”.

19 (B) in paragraph (3), by striking “section  
20 1366(i)” and inserting “section 1366(e)”;

21 (2) in subsection (c), by striking “sections 1366  
22 and 1323” and inserting “section 1366”;

23 (3) by redesignating subsections (d) and (e) as  
24 subsections (f) and (g), respectively; and

1           (4) by inserting after subsection (c) the fol-  
2           lowing new subsections:

3           “(d) PROHIBITION ON OFFSETTING COLLECTIONS.—  
4           Notwithstanding any other provision of this title, amounts  
5           made available pursuant to this section shall not be sub-  
6           ject to offsetting collections through premium rates for  
7           flood insurance coverage under this title.

8           “(e) CONTINUED AVAILABILITY AND REALLOCA-  
9           TION.—Any amounts made available pursuant to subpara-  
10          graph (A), (B), or (C) of subsection (b)(1) that are not  
11          used in any fiscal year shall continue to be available for  
12          the purposes specified in such subparagraph of subsection  
13          (b)(1) pursuant to which such amounts were made avail-  
14          able, unless the Administrator determines that realloca-  
15          tion of such unused amounts to meet demonstrated need  
16          for other mitigation activities under section 1366 is in the  
17          best interest of the National Flood Insurance Fund.”.

18          (f) INCREASED COST OF COMPLIANCE COVERAGE.—  
19          Section 1304(b)(4) of the National Flood Insurance Act  
20          of 1968 (42 U.S.C. 4011(b)(4)) is amended—

21                 (1) by striking subparagraph (B); and  
22                 (2) by redesignating subparagraphs (C), (D),  
23                 and (E) as subparagraphs (B), (C), and (D), respec-  
24                 tively.

1 **SEC. 352. NOTIFICATION TO HOMEOWNERS REGARDING**  
2 **MANDATORY PURCHASE REQUIREMENT AP-**  
3 **PLICABILITY AND RATE PHASE-INS.**

4 Section 201 of the Flood Disaster Protection Act of  
5 1973 (42 U.S.C. 4105) is amended by adding at the end  
6 the following new subsection:

7 “(f) ANNUAL NOTIFICATION.—The Administrator, in  
8 consultation with affected communities, shall establish and  
9 carry out a plan to notify residents of areas having special  
10 flood hazards, on an annual basis—

11 “(1) that they reside in such an area;

12 “(2) of the geographical boundaries of such  
13 area;

14 “(3) of whether section 1308(g) of the National  
15 Flood Insurance Act of 1968 applies to properties  
16 within such area;

17 “(4) of the provisions of section 102 requiring  
18 purchase of flood insurance coverage for properties  
19 located in such an area, including the date on which  
20 such provisions apply with respect to such area, tak-  
21 ing into consideration section 102(i); and

22 “(5) of a general estimate of what similar  
23 homeowners in similar areas typically pay for flood  
24 insurance coverage, taking into consideration section  
25 1308(g) of the National Flood Insurance Act of  
26 1968.”.

1 **SEC. 353. NOTIFICATION TO MEMBERS OF CONGRESS OF**  
2 **FLOOD MAP REVISIONS AND UPDATES.**

3 Section 1360 of the National Flood Insurance Act of  
4 1968 (42 U.S.C. 4101), as amended by the preceding pro-  
5 visions of this subtitle, is further amended by adding at  
6 the end the following new subsection:

7 “(1) NOTIFICATION TO MEMBERS OF CONGRESS OF  
8 MAP MODERNIZATION.—Upon any revision or update of  
9 any floodplain area or flood-risk zone pursuant to sub-  
10 section (f), any decision pursuant to subsection (f)(1) that  
11 such revision or update is necessary, any issuance of pre-  
12 liminary maps for such revision or updating, or any other  
13 significant action relating to any such revision or update,  
14 the Administrator shall notify the Senators for each State  
15 affected, and each Member of the House of Representa-  
16 tives for each congressional district affected, by such revi-  
17 sion or update in writing of the action taken.”.

18 **SEC. 354. NOTIFICATION AND APPEAL OF MAP CHANGES;**  
19 **NOTIFICATION TO COMMUNITIES OF ESTAB-**  
20 **LISHMENT OF FLOOD ELEVATIONS.**

21 Section 1363 of the National Flood Insurance Act of  
22 1968 (42 U.S.C. 4104) is amended by striking the section  
23 designation and all that follows through the end of sub-  
24 section (a) and inserting the following:

25 “SEC. 1363. (a) In establishing projected flood ele-  
26 vations for land use purposes with respect to any commu-

1 nity pursuant to section 1361, the Administrator shall  
2 first propose such determinations—

3           “(1) by providing the chief executive officer of  
4           each community affected by the proposed elevations,  
5           by certified mail, with a return receipt requested,  
6           notice of the elevations, including a copy of the maps  
7           for the elevations for such community and a state-  
8           ment explaining the process under this section to ap-  
9           peal for changes in such elevations;

10           “(2) by causing notice of such elevations to be  
11           published in the Federal Register, which notice shall  
12           include information sufficient to identify the ele-  
13           vation determinations and the communities affected,  
14           information explaining how to obtain copies of the  
15           elevations, and a statement explaining the process  
16           under this section to appeal for changes in the ele-  
17           vations;

18           “(3) by publishing in a prominent local news-  
19           paper the elevations, a description of the appeals  
20           process for flood determinations, and the mailing ad-  
21           dress and telephone number of a person the owner  
22           may contact for more information or to initiate an  
23           appeal;



1           “(4) by providing written notification, by first  
2           class mail, to each owner of real property affected by  
3           the proposed elevations of—

4                   “(A) the status of such property, both  
5                   prior to and after the effective date of the pro-  
6                   posed determination, with respect to flood zone  
7                   and flood insurance requirements under this  
8                   Act and the Flood Disaster Protection Act of  
9                   1973;

10                   “(B) the process under this section to ap-  
11                   peal a flood elevation determination; and

12                   “(C) the mailing address and phone num-  
13                   ber of a person the owner may contact for more  
14                   information or to initiate an appeal; and”.

15 **SEC. 355. NOTIFICATION TO TENANTS OF AVAILABILITY OF**  
16 **CONTENTS INSURANCE.**

17           The National Flood Insurance Act of 1968 is amend-  
18           ed by inserting after section 1308 (42 U.S.C. 4015) the  
19           following new section:

20 **“SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY**  
21 **OF CONTENTS INSURANCE.**

22           “(a) IN GENERAL.—The Administrator shall, upon  
23           entering into a contract for flood insurance coverage under  
24           this title for any property—

1           “(1) provide to the insured sufficient copies of  
2 the notice developed pursuant to subsection (b); and

3           “(2) require the insured to provide a copy of  
4 the notice, or otherwise provide notification of the  
5 information under subsection (b) in the manner that  
6 the manager or landlord deems most appropriate, to  
7 each such tenant and to each new tenant upon com-  
8 mencement of such a tenancy.

9           “(b) NOTICE.—Notice to a tenant of a property in  
10 accordance with this subsection is written notice that  
11 clearly informs a tenant—

12           “(1) whether the property is located in an area  
13 having special flood hazards;

14           “(2) that flood insurance coverage is available  
15 under the national flood insurance program under  
16 this title for contents of the unit or structure leased  
17 by the tenant;

18           “(3) of the maximum amount of such coverage  
19 for contents available under this title at that time;  
20 and

21           “(4) of where to obtain information regarding  
22 how to obtain such coverage, including a telephone  
23 number, mailing address, and Internet site of the  
24 Administrator where such information is available.”.

1 **SEC. 356. NOTIFICATION TO POLICY HOLDERS REGARDING**  
2 **DIRECT MANAGEMENT OF POLICY BY FEMA.**

3 Part C of chapter II of the National Flood Insurance  
4 Act of 1968 (42 U.S.C. 4081 et seq.) is amended by add-  
5 ing at the end the following new section:

6 **“SEC. 1349. NOTIFICATION TO POLICY HOLDERS REGARD-**  
7 **ING DIRECT MANAGEMENT OF POLICY BY**  
8 **FEMA.**

9 “(a) NOTIFICATION.—Not later than 60 days before  
10 the date on which a transferred flood insurance policy ex-  
11 pires, and annually thereafter until such time as the Fed-  
12 eral Emergency Management Agency is no longer directly  
13 administering such policy, the Administrator shall notify  
14 the holder of such policy that—

15 “(1) the Federal Emergency Management  
16 Agency is directly administering the policy;

17 “(2) such holder may purchase flood insurance  
18 that is directly administered by an insurance com-  
19 pany; and

20 “(3) purchasing flood insurance offered under  
21 the National Flood Insurance Program that is di-  
22 rectly administered by an insurance company will  
23 not alter the coverage provided or the premiums  
24 charged to such holder that otherwise would be pro-  
25 vided or charged if the policy was directly adminis-

1       tered by the Federal Emergency Management Agen-  
2       cy.

3       “(b) DEFINITION.—In this section, the term ‘trans-  
4       ferred flood insurance policy’ means a flood insurance pol-  
5       icy that—

6               “(1) was directly administered by an insurance  
7       company at the time the policy was originally pur-  
8       chased by the policy holder; and

9               “(2) at the time of renewal of the policy, direct  
10       administration of the policy was or will be trans-  
11       ferred to the Federal Emergency Management Agen-  
12       cy.”.

13       **SEC. 357. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**  
14                       **AND ESCROW IN RESPA GOOD FAITH ESTI-**  
15                       **MATE.**

16       Subsection (c) of section 5 of the Real Estate Settle-  
17       ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is  
18       amended by adding at the end the following new sentence:  
19       “Each such good faith estimate shall include the following  
20       conspicuous statements and information: (1) that flood in-  
21       surance coverage for residential real estate is generally  
22       available under the national flood insurance program  
23       whether or not the real estate is located in an area having  
24       special flood hazards and that, to obtain such coverage,  
25       a home owner or purchaser should contact the national



1 Administrator shall reimburse such owner, or such  
2 entity or jurisdiction acting on such owner’s behalf,  
3 or such community, as applicable, for any reasonable  
4 costs incurred in obtaining such letter.

5 “(2) REASONABLE COSTS.—The Administrator  
6 shall, by regulation or notice, determine a reasonable  
7 amount of costs to be reimbursed under paragraph  
8 (1), except that such costs shall not include legal or  
9 attorneys fees. In determining the reasonableness of  
10 costs, the Administrator shall only consider the ac-  
11 tual costs to the owner or community, as applicable,  
12 of utilizing the services of an engineer, surveyor, or  
13 similar services.”.

14 (b) REGULATIONS.—Not later than 90 days after the  
15 date of the enactment of this Act, the Administrator of  
16 the Federal Emergency Management Agency shall issue  
17 the regulations or notice required under section  
18 1360(m)(2) of the National Flood Insurance Act of 1968,  
19 as added by the amendment made by subsection (a) of  
20 this section.

21 **SEC. 359. ENHANCED COMMUNICATION WITH CERTAIN**  
22 **COMMUNITIES DURING MAP UPDATING**  
23 **PROCESS.**

24 Section 1360 of the National Flood Insurance Act of  
25 1968 (42 U.S.C. 4101), as amended by the preceding pro-

1 visions of this subtitle, is further amended by adding at  
2 the end the following new subsection:

3       “(n) ENHANCED COMMUNICATION WITH CERTAIN  
4 COMMUNITIES DURING MAP UPDATING PROCESS.—In  
5 updating flood insurance maps under this section, the Ad-  
6 ministrator shall communicate with communities located  
7 in areas where flood insurance rate maps have not been  
8 updated in 20 years or more and the appropriate State  
9 emergency agencies to resolve outstanding issues, provide  
10 technical assistance, and disseminate all necessary infor-  
11 mation to reduce the prevalence of outdated maps in flood-  
12 prone areas.”.

13 **SEC. 360. NOTIFICATION TO RESIDENTS NEWLY INCLUDED**  
14 **IN FLOOD HAZARD AREAS.**

15       Section 1360 of the National Flood Insurance Act of  
16 1968 (42 U.S.C. 4101), as amended by the preceding pro-  
17 visions of this subtitle, is further amended by adding at  
18 the end the following new subsection:

19       “(o) NOTIFICATION TO RESIDENTS NEWLY IN-  
20 CLUDED IN FLOOD HAZARD AREA.—In revising or updat-  
21 ing any areas having special flood hazards, the Adminis-  
22 trator shall provide to each owner of a property to be  
23 newly included in such a special flood hazard area, at the  
24 time of issuance of such proposed revised or updated flood  
25 insurance maps, a copy of the proposed revised or updated

1 flood insurance maps together with information regarding  
2 the appeals process under section 1363 (42 U.S.C.  
3 4104).”.

4 **SEC. 361. TREATMENT OF SWIMMING POOL ENCLOSURES**  
5 **OUTSIDE OF HURRICANE SEASON.**

6 Chapter I of the National Flood Insurance Act of  
7 1968 (42 U.S.C. 4001 et seq.) is amended by adding at  
8 the end the following new section:

9 **“SEC. 1325. TREATMENT OF SWIMMING POOL ENCLOSURES**  
10 **OUTSIDE OF HURRICANE SEASON.**

11 “In the case of any property that is otherwise in com-  
12 pliance with the coverage and building requirements of the  
13 national flood insurance program, the presence of an en-  
14 closed swimming pool located at ground level or in the  
15 space below the lowest floor of a building after November  
16 30 and before June 1 of any year shall have no effect on  
17 the terms of coverage or the ability to receive coverage  
18 for such building under the national flood insurance pro-  
19 gram established pursuant to this title, if the pool is en-  
20 closed with non-supporting breakaway walls.”.

21 **SEC. 362. INFORMATION REGARDING MULTIPLE PERILS**  
22 **CLAIMS.**

23 Section 1345 of the National Flood Insurance Act of  
24 1968 (42 U.S.C. 4081) is amended by adding at the end  
25 the following new subsection:



1       “(d) INFORMATION REGARDING MULTIPLE PERILS  
2 CLAIMS.—

3           “(1) IN GENERAL.—Subject to paragraph (2),  
4 if an insured having flood insurance coverage under  
5 a policy issued under the program under this title by  
6 the Administrator or a company, insurer, or entity  
7 offering flood insurance coverage under such pro-  
8 gram (in this subsection referred to as a ‘partici-  
9 pating company’) has wind or other homeowners  
10 coverage from any company, insurer, or other entity  
11 covering property covered by such flood insurance, in  
12 the case of damage to such property that may have  
13 been caused by flood or by wind, the Administrator  
14 and the participating company, upon the request of  
15 the insured, shall provide to the insured, within 30  
16 days of such request—

17           “(A) a copy of the estimate of structure  
18 damage;

19           “(B) proofs of loss;

20           “(C) any expert or engineering reports or  
21 documents commissioned by or relied upon by  
22 the Administrator or participating company in  
23 determining whether the damage was caused by  
24 flood or any other peril; and

1           “(D) the Administrator’s or the partici-  
2           pating company’s final determination on the  
3           claim.

4           “(2) TIMING.—Paragraph (1) shall apply only  
5           with respect to a request described in such para-  
6           graph made by an insured after the Administrator  
7           or the participating company, or both, as applicable,  
8           have issued a final decision on the flood claim in-  
9           volved and resolution of all appeals with respect to  
10          such claim.”.

11 **SEC. 363. FEMA AUTHORITY TO REJECT TRANSFER OF**  
12                                   **POLICIES.**

13          Section 1345 of the National Flood Insurance Act of  
14          1968 (42 U.S.C. 4081) is amended by adding at the end  
15          the following new subsection:

16          “(e) FEMA AUTHORITY TO REJECT TRANSFER OF  
17          POLICIES.—Notwithstanding any other provision of this  
18          Act, the Administrator may, at the discretion of the Ad-  
19          ministrators, refuse to accept the transfer of the adminis-  
20          tration of policies for coverage under the flood insurance  
21          program under this title that are written and administered  
22          by any insurance company or other insurer, or any insur-  
23          ance agent or broker.”.

1 **SEC. 364. APPEALS.**

2 (a) TELEVISION AND RADIO ANNOUNCEMENT.—Sec-  
3 tion 1363 of the National Flood Insurance Act of 1968  
4 (42 U.S.C. 4104), as amended by the preceding provisions  
5 of this subtitle, is further amended—

6 (1) in subsection (a), by adding at the end the  
7 following new paragraph:

8 “(5) by notifying a local television and radio  
9 station,”; and

10 (2) in the first sentence of subsection (b), by in-  
11 serting before the period at the end the following:

12 “and shall notify a local television and radio station  
13 at least once during the same 10-day period”.

14 (b) EXTENSION OF APPEALS PERIOD.—Subsection  
15 (b) of section 1363 of the National Flood Insurance Act  
16 of 1968 (42 U.S.C. 4104(b)) is amended—

17 (1) by striking “(b) The Director” and insert-  
18 ing “(b)(1) The Administrator”; and

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

21 “(2) The Administrator shall grant an extension of  
22 the 90-day period for appeals referred to in paragraph (1)  
23 for 90 additional days if an affected community certifies  
24 to the Administrator, after the expiration of at least 60  
25 days of such period, that the community—

1           “(A) believes there are property owners or les-  
2           sees in the community who are unaware of such pe-  
3           riod for appeals; and

4           “(B) will utilize the extension under this para-  
5           graph to notify property owners or lessees who are  
6           affected by the proposed flood elevation determina-  
7           tions of the period for appeals and the opportunity  
8           to appeal the determinations proposed by the Ad-  
9           ministrators.”.

10          (c) APPLICABILITY.—The amendments made by sub-  
11          sections (a) and (b) shall apply with respect to any flood  
12          elevation determination for any area in a community that  
13          has not, as of the date of the enactment of this Act, been  
14          issued a Letter of Final Determination for such deter-  
15          mination under the flood insurance map modernization  
16          process.

17          **SEC. 365. RESERVE FUND.**

18          (a) ESTABLISHMENT.—Chapter I of the National  
19          Flood Insurance Act of 1968 is amended by inserting after  
20          section 1310 (42 U.S.C. 4017) the following new section:

21          **“SEC. 1310A. RESERVE FUND.**

22                 “(a) ESTABLISHMENT OF RESERVE FUND.—In car-  
23                 rying out the flood insurance program authorized by this  
24                 title, the Administrator shall establish in the Treasury of  
25                 the United States a National Flood Insurance Reserve

1 Fund (in this section referred to as the ‘Reserve Fund’)  
2 which shall—

3 “(1) be an account separate from any other ac-  
4 counts or funds available to the Administrator; and  
5 “(2) be available for meeting the expected fu-  
6 ture obligations of the flood insurance program.

7 “(b) RESERVE RATIO.—Subject to the phase-in re-  
8 quirements under subsection (d), the Reserve Fund shall  
9 maintain a balance equal to—

10 “(1) 1 percent of the sum of the total potential  
11 loss exposure of all outstanding flood insurance poli-  
12 cies in force in the prior fiscal year; or

13 “(2) such higher percentage as the Adminis-  
14 trator determines to be appropriate, taking into con-  
15 sideration any circumstance that may raise a signifi-  
16 cant risk of substantial future losses to the Reserve  
17 Fund.

18 “(c) MAINTENANCE OF RESERVE RATIO.—

19 “(1) IN GENERAL.—The Administrator shall  
20 have the authority to establish, increase, or decrease  
21 the amount of aggregate annual insurance premiums  
22 to be collected for any fiscal year necessary—

23 “(A) to maintain the reserve ratio required  
24 under subsection (b); and

1           “(B) to achieve such reserve ratio, if the  
2           actual balance of such reserve is below the  
3           amount required under subsection (b).

4           “(2) CONSIDERATIONS.—In exercising the au-  
5           thority under paragraph (1), the Administrator shall  
6           consider—

7                   “(A) the expected operating expenses of  
8                   the Reserve Fund;

9                   “(B) the insurance loss expenditures under  
10                  the flood insurance program;

11                  “(C) any investment income generated  
12                  under the flood insurance program; and

13                  “(D) any other factor that the Adminis-  
14                  trator determines appropriate.

15           “(3) LIMITATIONS.—In exercising the authority  
16           under paragraph (1), the Administrator shall be  
17           subject to all other provisions of this Act, including  
18           any provisions relating to chargeable premium rates  
19           and annual increases of such rates.

20           “(d) PHASE-IN REQUIREMENTS.—The phase-in re-  
21           quirements under this subsection are as follows:

22                   “(1) IN GENERAL.—Beginning in fiscal year  
23                   2012 and not ending until the fiscal year in which  
24                   the ratio required under subsection (b) is achieved,  
25                   in each such fiscal year the Administrator shall

1 place in the Reserve Fund an amount equal to not  
2 less than 7.5 percent of the reserve ratio required  
3 under subsection (b).

4 “(2) AMOUNT SATISFIED.—As soon as the ratio  
5 required under subsection (b) is achieved, and except  
6 as provided in paragraph (3), the Administrator  
7 shall not be required to set aside any amounts for  
8 the Reserve Fund.

9 “(3) EXCEPTION.—If at any time after the  
10 ratio required under subsection (b) is achieved, the  
11 Reserve Fund falls below the required ratio under  
12 subsection (b), the Administrator shall place in the  
13 Reserve Fund for that fiscal year an amount equal  
14 to not less than 7.5 percent of the reserve ratio re-  
15 quired under subsection (b).

16 “(e) LIMITATION ON RESERVE RATIO.—In any given  
17 fiscal year, if the Administrator determines that the re-  
18 serve ratio required under subsection (b) cannot be  
19 achieved, the Administrator shall submit a report to the  
20 Congress that—

21 “(1) describes and details the specific concerns  
22 of the Administrator regarding such consequences;

23 “(2) demonstrates how such consequences  
24 would harm the long-term financial soundness of the  
25 flood insurance program; and

1           “(3) indicates the maximum attainable reserve  
2           ratio for that particular fiscal year.

3           “(f) AVAILABILITY OF AMOUNTS.—The reserve ratio  
4           requirements under subsection (b) and the phase-in re-  
5           quirements under subsection (d) shall be subject to the  
6           availability of amounts in the National Flood Insurance  
7           Fund for transfer under section 1310(a)(10), as provided  
8           in section 1310(f).”.

9           (b) FUNDING.—Subsection (a) of section 1310 of the  
10          National Flood Insurance Act of 1968 (42 U.S.C.  
11          4017(a)), as amended by the preceding provisions of this  
12          Act, is further amended by adding at the end the following  
13          new paragraph:

14                 “(10) for transfers to the National Flood Insur-  
15                 ance Reserve Fund under section 1310A, in accord-  
16                 ance with such section.”.

17          **SEC. 366. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUT-**  
18                                 **REACH ACTIVITIES AND COMMUNITY BUILD-**  
19                                 **ING CODE ADMINISTRATION GRANTS.**

20          Section 105(a) of the Housing and Community De-  
21          velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

22                 (1) in paragraph (24), by striking “and” at the  
23                 end;

24                 (2) in paragraph (25), by striking the period at  
25                 the end and inserting a semicolon; and



1           (3) by adding at the end the following new  
2 paragraphs:

3           “(26) supplementing existing State or local  
4 funding for administration of building code enforce-  
5 ment by local building code enforcement depart-  
6 ments, including for increasing staffing, providing  
7 staff training, increasing staff competence and pro-  
8 fessional qualifications, and supporting individual  
9 certification or departmental accreditation, and for  
10 capital expenditures specifically dedicated to the ad-  
11 ministration of the building code enforcement de-  
12 partment, except that, to be eligible to use amounts  
13 as provided in this paragraph—

14           “(A) a building code enforcement depart-  
15 ment shall provide matching, non-Federal funds  
16 to be used in conjunction with amounts used  
17 under this paragraph in an amount—

18           “(i) in the case of a building code en-  
19 forcement department serving an area with  
20 a population of more than 50,000, equal to  
21 not less than 50 percent of the total  
22 amount of any funds made available under  
23 this title that are used under this para-  
24 graph;

1           “(ii) in the case of a building code en-  
2           forcement department serving an area with  
3           a population of between 20,001 and  
4           50,000, equal to not less than 25 percent  
5           of the total amount of any funds made  
6           available under this title that are used  
7           under this paragraph; and

8           “(iii) in the case of a building code  
9           enforcement department serving an area  
10          with a population of less than 20,000,  
11          equal to not less than 12.5 percent of the  
12          total amount of any funds made available  
13          under this title that are used under this  
14          paragraph,

15          except that the Secretary may waive the match-  
16          ing fund requirements under this subparagraph,  
17          in whole or in part, based upon the level of eco-  
18          nomic distress of the jurisdiction in which is lo-  
19          cated the local building code enforcement de-  
20          partment that is using amounts for purposes  
21          under this paragraph, and shall waive such  
22          matching fund requirements in whole for any  
23          recipient jurisdiction that has dedicated all  
24          building code permitting fees to the conduct of  
25          local building code enforcement; and

1           “(B) any building code enforcement de-  
2           partment using funds made available under this  
3           title for purposes under this paragraph shall  
4           empanel a code administration and enforcement  
5           team consisting of at least 1 full-time building  
6           code enforcement officer, a city planner, and a  
7           health planner or similar officer; and

8           “(27) provision of assistance to local govern-  
9           mental agencies responsible for floodplain manage-  
10          ment activities (including such agencies of Indians  
11          tribes, as such term is defined in section 4 of the  
12          Native American Housing Assistance and Self-De-  
13          termination Act of 1996 (25 U.S.C. 4103)) in com-  
14          munities that participate in the national flood insur-  
15          ance program under the National Flood Insurance  
16          Act of 1968 (42 U.S.C. 4001 et seq.), only for car-  
17          rying out outreach activities to encourage and facili-  
18          tate the purchase of flood insurance protection  
19          under such Act by owners and renters of properties  
20          in such communities and to promote educational ac-  
21          tivities that increase awareness of flood risk reduc-  
22          tion; except that—

23                 “(A) amounts used as provided under this  
24                 paragraph shall be used only for activities de-  
25                 signed to—

1           “(i) identify owners and renters of  
2 properties in communities that participate  
3 in the national flood insurance program,  
4 including owners of residential and com-  
5 mercial properties;

6           “(ii) notify such owners and renters  
7 when their properties become included in,  
8 or when they are excluded from, an area  
9 having special flood hazards and the effect  
10 of such inclusion or exclusion on the appli-  
11 cability of the mandatory flood insurance  
12 purchase requirement under section 102 of  
13 the Flood Disaster Protection Act of 1973  
14 (42 U.S.C. 4012a) to such properties;

15           “(iii) educate such owners and renters  
16 regarding the flood risk and reduction of  
17 this risk in their community, including the  
18 continued flood risks to areas that are no  
19 longer subject to the flood insurance man-  
20 datory purchase requirement;

21           “(iv) educate such owners and renters  
22 regarding the benefits and costs of main-  
23 taining or acquiring flood insurance, in-  
24 cluding, where applicable, lower-cost pre-  
25 ferred risk policies under this title for such

1 properties and the contents of such prop-  
2 erties;

3 “(v) encourage such owners and rent-  
4 ers to maintain or acquire such coverage;

5 “(vi) notify such owners of where to  
6 obtain information regarding how to obtain  
7 such coverage, including a telephone num-  
8 ber, mailing address, and Internet site of  
9 the Administrator of the Federal Emer-  
10 gency Management Agency (in this para-  
11 graph referred to as the ‘Administrator’)  
12 where such information is available; and

13 “(vii) educate local real estate agents  
14 in communities participating in the na-  
15 tional flood insurance program regarding  
16 the program and the availability of cov-  
17 erage under the program for owners and  
18 renters of properties in such communities,  
19 and establish coordination and liaisons  
20 with such real estate agents to facilitate  
21 purchase of coverage under the National  
22 Flood Insurance Act of 1968 and increase  
23 awareness of flood risk reduction;

24 “(B) in any fiscal year, a local govern-  
25 mental agency may not use an amount under

1 this paragraph that exceeds 3 times the amount  
2 that the agency certifies, as the Secretary, in  
3 consultation with the Administrator, shall re-  
4 quire, that the agency will contribute from non-  
5 Federal funds to be used with such amounts  
6 used under this paragraph only for carrying out  
7 activities described in subparagraph (A); and  
8 for purposes of this subparagraph, the term  
9 ‘non-Federal funds’ includes State or local gov-  
10 ernment agency amounts, in-kind contributions,  
11 any salary paid to staff to carry out the eligible  
12 activities of the local governmental agency in-  
13 volved, the value of the time and services con-  
14 tributed by volunteers to carry out such services  
15 (at a rate determined by the Secretary), and  
16 the value of any donated material or building  
17 and the value of any lease on a building;

18 “(C) a local governmental agency that uses  
19 amounts as provided under this paragraph may  
20 coordinate or contract with other agencies and  
21 entities having particular capacities, specialties,  
22 or experience with respect to certain popu-  
23 lations or constituencies, including elderly or  
24 disabled families or persons, to carry out activi-

1           ties described in subparagraph (A) with respect  
2           to such populations or constituencies; and

3           “(D) each local government agency that  
4           uses amounts as provided under this paragraph  
5           shall submit a report to the Secretary and the  
6           Administrator, not later than 12 months after  
7           such amounts are first received, which shall in-  
8           clude such information as the Secretary and the  
9           Administrator jointly consider appropriate to  
10          describe the activities conducted using such  
11          amounts and the effect of such activities on the  
12          retention or acquisition of flood insurance cov-  
13          erage.”.

14 **SEC. 367. TECHNICAL CORRECTIONS.**

15          (a) FLOOD DISASTER PROTECTION ACT OF 1973.—  
16 The Flood Disaster Protection Act of 1973 (42 U.S.C.  
17 4002 et seq.) is amended—

18           (1) by striking “Director” each place such term  
19           appears, except in section 102(f)(3) (42 U.S.C.  
20           4012a(f)(3)), and inserting “Administrator”; and

21           (2) in section 201(b) (42 U.S.C. 4105(b)), by  
22           striking “Director’s” and inserting “Administra-  
23           tor’s”.

1 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—  
2 The National Flood Insurance Act of 1968 (42 U.S.C.  
3 4001 et seq.) is amended—

4 (1) by striking “Director” each place such term  
5 appears and inserting “Administrator”; and

6 (2) in section 1363 (42 U.S.C. 4104), by strik-  
7 ing “Director’s” each place such term appears and  
8 inserting “Administrator’s”.

9 (c) FEDERAL FLOOD INSURANCE ACT OF 1956.—  
10 Section 15(e) of the Federal Flood Insurance Act of 1956  
11 (42 U.S.C. 2414(e)) is amended by striking “Director”  
12 each place such term appears and inserting “Adminis-  
13 trator”.

14 **SEC. 368. REQUIRING COMPETITION FOR NATIONAL FLOOD**  
15 **INSURANCE PROGRAM POLICIES.**

16 (a) REPORT.—Not later than the expiration of the  
17 90-day period beginning upon the date of the enactment  
18 of this Act, the Administrator of the Federal Emergency  
19 Management Agency, in consultation with insurance com-  
20 panies, insurance agents and other organizations with  
21 which the Administrator has contracted, shall submit to  
22 the Congress a report describing procedures and policies  
23 that the Administrator shall implement to limit the per-  
24 centage of policies for flood insurance coverage under the  
25 national flood insurance program that are directly man-



1 aged by the Agency to not more than 10 percent of the  
2 aggregate number of flood insurance policies in force  
3 under such program.

4 (b) IMPLEMENTATION.—Upon submission of the re-  
5 port under subsection (a) to the Congress, the Adminis-  
6 trator shall implement the policies and procedures de-  
7 scribed in the report. The Administrator shall, not later  
8 than the expiration of the 12-month period beginning  
9 upon submission of such report, reduce the number of  
10 policies for flood insurance coverage that are directly man-  
11 aged by the Agency, or by the Agency’s direct servicing  
12 contractor that is not an insurer, to not more than 10  
13 percent of the aggregate number of flood insurance poli-  
14 cies in force as of the expiration of such 12-month period.

15 (c) CONTINUATION OF CURRENT AGENT RELATION-  
16 SHIPS.—In carrying out subsection (b), the Administrator  
17 shall ensure that—

18 (1) agents selling or servicing policies described  
19 in such subsection are not prevented from con-  
20 tinuing to sell or service such policies; and

21 (2) insurance companies are not prevented from  
22 waiving any limitation such companies could other-  
23 wise enforce to limit any such activity.

1 **SEC. 369. STUDIES OF VOLUNTARY COMMUNITY-BASED**  
2 **FLOOD INSURANCE OPTIONS.**

3 (a) STUDIES.—The Administrator of the Federal  
4 Emergency Management Agency and the Comptroller  
5 General of the United States shall each conduct a separate  
6 study to assess options, methods, and strategies for offer-  
7 ing voluntary community-based flood insurance policy op-  
8 tions and incorporating such options into the national  
9 flood insurance program. Such studies shall take into con-  
10 sideration and analyze how the policy options would affect  
11 communities having varying economic bases, geographic  
12 locations, flood hazard characteristics or classifications,  
13 and flood management approaches.

14 (b) REPORTS.—Not later than the expiration of the  
15 18-month period beginning on the date of the enactment  
16 of this Act, the Administrator of the Federal Emergency  
17 Management Agency and the Comptroller General of the  
18 United States shall each submit a report to the Committee  
19 on Financial Services of the House of Representatives and  
20 the Committee on Banking, Housing, and Urban Affairs  
21 of the Senate on the results and conclusions of the study  
22 such agency conducted under subsection (a), and each  
23 such report shall include recommendations for the best  
24 manner to incorporate voluntary community-based flood  
25 insurance options into the national flood insurance pro-  
26 gram and for a strategy to implement such options that

1 would encourage communities to undertake flood mitiga-  
2 tion activities.

3 **SEC. 370. REPORT ON INCLUSION OF BUILDING CODES IN**  
4 **FLOODPLAIN MANAGEMENT CRITERIA.**

5 Not later than the expiration of the 6-month period  
6 beginning on the date of the enactment of this Act, the  
7 Administrator of the Federal Emergency Management  
8 Agency shall conduct a study and submit a report to the  
9 Committee on Financial Services of the House of Rep-  
10 resentatives and the Committee on Banking, Housing, and  
11 Urban Affairs of the Senate regarding the impact, effec-  
12 tiveness, and feasibility of amending section 1361 of the  
13 National Flood Insurance Act of 1968 (42 U.S.C. 4102)  
14 to include widely used and nationally recognized building  
15 codes as part of the floodplain management criteria devel-  
16 oped under such section, and shall determine—

17 (1) the regulatory, financial, and economic im-  
18 pacts of such a building code requirement on home-  
19 owners, States and local communities, local land use  
20 policies, and the Federal Emergency Management  
21 Agency;

22 (2) the resources required of State and local  
23 communities to administer and enforce such a build-  
24 ing code requirement;

1           (3) the effectiveness of such a building code re-  
2           quirement in reducing flood-related damage to build-  
3           ings and contents;

4           (4) the impact of such a building code require-  
5           ment on the actuarial soundness of the National  
6           Flood Insurance Program;

7           (5) the effectiveness of nationally recognized  
8           codes in allowing innovative materials and systems  
9           for flood-resistant construction;

10          (6) the feasibility and effectiveness of providing  
11          an incentive in lower premium rates for flood insur-  
12          ance coverage under such Act for structures meeting  
13          whichever of such widely used and nationally recog-  
14          nized building code or any applicable local building  
15          code provides greater protection from flood damage;

16          (7) the impact of such a building code require-  
17          ment on rural communities with different building  
18          code challenges than more urban environments; and

19          (8) the impact of such a building code require-  
20          ment on Indian reservations.

21 **SEC. 371. STUDY ON GRADUATED RISK.**

22          (a) **STUDY.**—The National Academy of Sciences shall  
23          conduct a study exploring methods for understanding  
24          graduated risk behind levees and the associated land de-

1 velopment, insurance, and risk communication dimensions,  
2 which shall—

3           (1) research, review, and recommend current  
4 best practices for estimating direct annualized flood  
5 losses behind levees for residential and commercial  
6 structures;

7           (2) rank such practices based on their best  
8 value, balancing cost, scientific integrity, and the in-  
9 herent uncertainties associated with all aspects of  
10 the loss estimate, including geotechnical engineering,  
11 flood frequency estimates, economic value, and direct  
12 damages;

13           (3) research, review, and identify current best  
14 floodplain management and land use practices be-  
15 hind levees that effectively balance social, economic,  
16 and environmental considerations as part of an over-  
17 all flood risk management strategy;

18           (4) identify examples where such practices have  
19 proven effective and recommend methods and proc-  
20 esses by which they could be applied more broadly  
21 across the United States, given the variety of dif-  
22 ferent flood risks, State and local legal frameworks,  
23 and evolving judicial opinions;

24           (5) research, review, and identify a variety of  
25 flood insurance pricing options for flood hazards be-

1 hind levees which are actuarially sound and based on  
2 the flood risk data developed using the top three  
3 best value approaches identified pursuant to para-  
4 graph (1);

5 (6) evaluate and recommend methods to reduce  
6 insurance costs through creative arrangements be-  
7 tween insureds and insurers while keeping a clear  
8 accounting of how much financial risk is being borne  
9 by various parties such that the entire risk is ac-  
10 counted for, including establishment of explicit limits  
11 on disaster aid or other assistance in the event of a  
12 flood; and

13 (7) taking into consideration the recommenda-  
14 tions pursuant to paragraphs (1) through (3), rec-  
15 ommend approaches to communicating the associ-  
16 ated risks to community officials, homeowners, and  
17 other residents.

18 (b) REPORT.—Not later than the expiration of the  
19 12-month period beginning on the date of the enactment  
20 of this Act, the National Academy of Sciences shall submit  
21 a report to the Committees on Financial Services and  
22 Science, Space, and Technology of the House of Rep-  
23 resentatives and the Committees on Banking, Housing,  
24 and Urban Affairs and Commerce, Science and Transpor-  
25 tation of the Senate on the study under subsection (a) in-

1 cluding the information and recommendations required  
2 under such subsection.

3 **SEC. 372. REPORT ON FLOOD-IN-PROGRESS DETERMINA-**  
4 **TION.**

5 The Administrator of the Federal Emergency Man-  
6 agement Agency shall review the processes and procedures  
7 for determining that a flood event has commenced or is  
8 in progress for purposes of flood insurance coverage made  
9 available under the national flood insurance program  
10 under the National Flood Insurance Act of 1968 and for  
11 providing public notification that such an event has com-  
12 menced or is in progress. In such review, the Adminis-  
13 trator shall take into consideration the effects and implica-  
14 tions that weather conditions, such as rainfall, snowfall,  
15 projected snowmelt, existing water levels, and other condi-  
16 tions have on the determination that a flood event has  
17 commenced or is in progress. Not later than the expiration  
18 of the 6-month period beginning upon the date of the en-  
19 actment of this Act, the Administrator shall submit a re-  
20 port to the Congress setting forth the results and conclu-  
21 sions of the review undertaken pursuant to this section  
22 and any actions undertaken or proposed actions to be  
23 taken to provide for a more precise and technical deter-  
24 mination that a flooding event has commenced or is in  
25 progress.

1 **SEC. 373. STUDY ON REPAYING FLOOD INSURANCE DEBT.**

2 Not later than the expiration of the 6-month period  
3 beginning on the date of the enactment of this Act, the  
4 Administrator of the Federal Emergency Management  
5 Agency shall submit a report to the Congress setting forth  
6 a plan for repaying within 10 years all amounts, including  
7 any amounts previously borrowed but not yet repaid, owed  
8 pursuant to clause (2) of subsection (a) of section 1309  
9 of the National Flood Insurance Act of 1968 (42 U.S.C.  
10 4016(a)(2)).

11 **SEC. 374. NO CAUSE OF ACTION.**

12 No cause of action shall exist and no claim may be  
13 brought against the United States for violation of any no-  
14 tification requirement imposed upon the United States by  
15 this subtitle or any amendment made by this subtitle.

16 **SEC. 375. AUTHORITY FOR THE CORPS OF ENGINEERS TO**  
17 **PROVIDE SPECIALIZED OR TECHNICAL SERV-**  
18 **ICES.**

19 (a) IN GENERAL.—Notwithstanding any other provi-  
20 sion of law, upon the request of a State or local govern-  
21 ment, the Secretary of the Army may evaluate a levee sys-  
22 tem that was designed or constructed by the Secretary for  
23 the purposes of the National Flood Insurance Program es-  
24 tablished under chapter 1 of the National Flood Insurance  
25 Act of 1968 (42 U.S.C. 4011 et seq.).



1 (b) REQUIREMENTS.—A levee system evaluation  
2 under subsection (a) shall—

3 (1) comply with applicable regulations related  
4 to areas protected by a levee system;

5 (2) be carried out in accordance with such pro-  
6 cedures as the Secretary, in consultation with the  
7 Administrator of the Federal Emergency Manage-  
8 ment Agency, may establish; and

9 (3) be carried out only if the State or local gov-  
10 ernment agrees to reimburse the Secretary for all  
11 cost associated with the performance of the activi-  
12 ties.

## 13 **Subtitle E—Repeal of the Office of** 14 **Financial Research**

### 15 **SEC. 381. REPEAL OF THE OFFICE OF FINANCIAL RE-** 16 **SEARCH.**

17 (a) IN GENERAL.—Subtitle B of title I of the Dodd-  
18 Frank Wall Street Reform and Consumer Protection Act  
19 is hereby repealed.

20 (b) CONFORMING AMENDMENTS TO THE DODD-  
21 FRANK ACT.—The Dodd-Frank Wall Street Reform and  
22 Consumer Protection Act is amended—

23 (1) in section 102(a), by striking paragraph  
24 (5);

25 (2) in section 111—

- 1 (A) in subsection (b)(2)—
- 2 (i) by striking subparagraph (A); and
- 3 (ii) by redesignating subparagraphs
- 4 (B), (C), (D), and (E) as subparagraphs
- 5 (A), (B), (C), and (D), respectively;
- 6 (B) in subsection (c)(1), by striking “sub-
- 7 paragraphs (C), (D), and (E)” and inserting
- 8 “subparagraphs (B), (C), and (D)”;
- 9 (3) in section 112—
- 10 (A) in subsection (a)(2)—
- 11 (i) in subparagraph (A), by striking
- 12 “direct the Office of Financial Research
- 13 to”;
- 14 (ii) by striking subparagraph (B); and
- 15 (iii) by redesignating subparagraphs
- 16 (C), (D), (E), (F), (G), (H), (I), (J), (K),
- 17 (L), (M), and (N) as subparagraphs (B),
- 18 (C), (D), (E), (F), (G), (H), (I), (J), (K),
- 19 (L), and (M), respectively; and
- 20 (B) in subsection (d)—
- 21 (i) in paragraph (1), by striking “the
- 22 Office of Financial Research, member
- 23 agencies, and” and inserting “member
- 24 agencies and”;

1 (ii) in paragraph (2), by striking “the  
2 Office of Financial Research, any member  
3 agency, and” and inserting “any member  
4 agency and”;

5 (iii) in paragraph (3)—

6 (I) by striking “, acting through  
7 the Office of Financial Research,”  
8 each place it appears; and

9 (II) in subparagraph (B), by  
10 striking “the Office of Financial Re-  
11 search or”; and

12 (iv) in paragraph (5)(A), by striking  
13 “, the Office of Financial Research,”;

14 (4) in section 116, by striking “, acting through  
15 the Office of Financial Research,” each place it ap-  
16 pears; and

17 (5) by striking section 118.

18 (c) CONFORMING AMENDMENT TO THE PAPERWORK  
19 REDUCTION ACT.—Effective as of the date specified in  
20 section 1100H of the Dodd-Frank Wall Street Reform and  
21 Consumer Protection Act, section 1100D(a) of such Act  
22 is amended to read as follows:

23 “(a) DESIGNATION AS AN INDEPENDENT AGENCY.—  
24 Section 3502(5) of subchapter I of chapter 35 of title 44,  
25 United States Code (commonly known as the Paperwork

1 Reduction Act) is amended by inserting ‘the Bureau of  
 2 Consumer Financial Protection,’ after ‘the Securities and  
 3 Exchange Commission,’.”

4 (d) TECHNICAL AMENDMENTS.—The table of con-  
 5 tents for the Dodd-Frank Wall Street Reform and Con-  
 6 sumer Protection Act is amended—

7 (1) by striking the item relating to section 118;

8 and

9 (2) by striking the items relating to subtitle B  
 10 of title I.

## 11 **TITLE IV—COMMITTEE ON THE** 12 **JUDICIARY**

### 13 **SEC. 401. SHORT TITLE.**

14 This title may be cited as the “Help Efficient, Acces-  
 15 sible, Low-cost, Timely Healthcare (HEALTH) Act of  
 16 2011”.

### 17 **SEC. 402. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

18 The time for the commencement of a health care law-  
 19 suit shall be 3 years after the date of manifestation of  
 20 injury or 1 year after the claimant discovers, or through  
 21 the use of reasonable diligence should have discovered, the  
 22 injury, whichever occurs first. In no event shall the time  
 23 for commencement of a health care lawsuit exceed 3 years  
 24 after the date of manifestation of injury unless tolled for  
 25 any of the following—

- 1 (1) upon proof of fraud;
- 2 (2) intentional concealment; or
- 3 (3) the presence of a foreign body, which has no
- 4 therapeutic or diagnostic purpose or effect, in the
- 5 person of the injured person.

6 Actions by a minor shall be commenced within 3 years  
7 from the date of the alleged manifestation of injury except  
8 that actions by a minor under the full age of 6 years shall  
9 be commenced within 3 years of manifestation of injury  
10 or prior to the minor's 8th birthday, whichever provides  
11 a longer period. Such time limitation shall be tolled for  
12 minors for any period during which a parent or guardian  
13 and a health care provider or health care organization  
14 have committed fraud or collusion in the failure to bring  
15 an action on behalf of the injured minor.

16 **SEC. 403. COMPENSATING PATIENT INJURY.**

17 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL  
18 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any  
19 health care lawsuit, nothing in this title shall limit a claim-  
20 ant's recovery of the full amount of the available economic  
21 damages, notwithstanding the limitation in subsection (b).

22 (b) ADDITIONAL NONECONOMIC DAMAGES.—In any  
23 health care lawsuit, the amount of noneconomic damages,  
24 if available, may be as much as \$250,000, regardless of  
25 the number of parties against whom the action is brought

1 or the number of separate claims or actions brought with  
2 respect to the same injury.

3 (c) NO DISCOUNT OF AWARD FOR NONECONOMIC  
4 DAMAGES.—For purposes of applying the limitation in  
5 subsection (b), future noneconomic damages shall not be  
6 discounted to present value. The jury shall not be in-  
7 formed about the maximum award for noneconomic dam-  
8 ages. An award for noneconomic damages in excess of  
9 \$250,000 shall be reduced either before the entry of judg-  
10 ment, or by amendment of the judgment after entry of  
11 judgment, and such reduction shall be made before ac-  
12 counting for any other reduction in damages required by  
13 law. If separate awards are rendered for past and future  
14 noneconomic damages and the combined awards exceed  
15 \$250,000, the future noneconomic damages shall be re-  
16 duced first.

17 (d) FAIR SHARE RULE.—In any health care lawsuit,  
18 each party shall be liable for that party's several share  
19 of any damages only and not for the share of any other  
20 person. Each party shall be liable only for the amount of  
21 damages allocated to such party in direct proportion to  
22 such party's percentage of responsibility. Whenever a  
23 judgment of liability is rendered as to any party, a sepa-  
24 rate judgment shall be rendered against each such party  
25 for the amount allocated to such party. For purposes of

1 this section, the trier of fact shall determine the propor-  
2 tion of responsibility of each party for the claimant's  
3 harm.

4 **SEC. 404. MAXIMIZING PATIENT RECOVERY.**

5 (a) COURT SUPERVISION OF SHARE OF DAMAGES  
6 ACTUALLY PAID TO CLAIMANTS.—In any health care law-  
7 suit, the court shall supervise the arrangements for pay-  
8 ment of damages to protect against conflicts of interest  
9 that may have the effect of reducing the amount of dam-  
10 ages awarded that are actually paid to claimants. In par-  
11 ticular, in any health care lawsuit in which the attorney  
12 for a party claims a financial stake in the outcome by vir-  
13 tue of a contingent fee, the court shall have the power  
14 to restrict the payment of a claimant's damage recovery  
15 to such attorney, and to redirect such damages to the  
16 claimant based upon the interests of justice and principles  
17 of equity. In no event shall the total of all contingent fees  
18 for representing all claimants in a health care lawsuit ex-  
19 ceed the following limits:

20 (1) Forty percent of the first \$50,000 recovered  
21 by the claimant(s).

22 (2) Thirty-three and one-third percent of the  
23 next \$50,000 recovered by the claimant(s).

24 (3) Twenty-five percent of the next \$500,000  
25 recovered by the claimant(s).

1           (4) Fifteen percent of any amount by which the  
2           recovery by the claimant(s) is in excess of \$600,000.

3           (b) APPLICABILITY.—The limitations in this section  
4 shall apply whether the recovery is by judgment, settle-  
5 ment, mediation, arbitration, or any other form of alter-  
6 native dispute resolution. In a health care lawsuit involv-  
7 ing a minor or incompetent person, a court retains the  
8 authority to authorize or approve a fee that is less than  
9 the maximum permitted under this section. The require-  
10 ment for court supervision in the first two sentences of  
11 subsection (a) applies only in civil actions.

12 **SEC. 405. PUNITIVE DAMAGES.**

13           (a) IN GENERAL.—Punitive damages may, if other-  
14 wise permitted by applicable State or Federal law, be  
15 awarded against any person in a health care lawsuit only  
16 if it is proven by clear and convincing evidence that such  
17 person acted with malicious intent to injure the claimant,  
18 or that such person deliberately failed to avoid unneces-  
19 sary injury that such person knew the claimant was sub-  
20 stantially certain to suffer. In any health care lawsuit  
21 where no judgment for compensatory damages is rendered  
22 against such person, no punitive damages may be awarded  
23 with respect to the claim in such lawsuit. No demand for  
24 punitive damages shall be included in a health care lawsuit  
25 as initially filed. A court may allow a claimant to file an



1 amended pleading for punitive damages only upon a mo-  
2 tion by the claimant and after a finding by the court, upon  
3 review of supporting and opposing affidavits or after a  
4 hearing, after weighing the evidence, that the claimant has  
5 established by a substantial probability that the claimant  
6 will prevail on the claim for punitive damages. At the re-  
7 quest of any party in a health care lawsuit, the trier of  
8 fact shall consider in a separate proceeding—

9           (1) whether punitive damages are to be award-  
10        ed and the amount of such award; and

11           (2) the amount of punitive damages following a  
12        determination of punitive liability.

13 If a separate proceeding is requested, evidence relevant  
14 only to the claim for punitive damages, as determined by  
15 applicable State law, shall be inadmissible in any pro-  
16 ceeding to determine whether compensatory damages are  
17 to be awarded.

18       (b) DETERMINING AMOUNT OF PUNITIVE DAM-  
19 AGES.—

20           (1) FACTORS CONSIDERED.—In determining  
21        the amount of punitive damages, if awarded, in a  
22        health care lawsuit, the trier of fact shall consider  
23        only the following—

24                   (A) the severity of the harm caused by the  
25        conduct of such party;

1 (B) the duration of the conduct or any  
2 concealment of it by such party;

3 (C) the profitability of the conduct to such  
4 party;

5 (D) the number of products sold or med-  
6 ical procedures rendered for compensation, as  
7 the case may be, by such party, of the kind  
8 causing the harm complained of by the claim-  
9 ant;

10 (E) any criminal penalties imposed on such  
11 party, as a result of the conduct complained of  
12 by the claimant; and

13 (F) the amount of any civil fines assessed  
14 against such party as a result of the conduct  
15 complained of by the claimant.

16 (2) MAXIMUM AWARD.—The amount of punitive  
17 damages, if awarded, in a health care lawsuit may  
18 be as much as \$250,000 or as much as two times  
19 the amount of economic damages awarded, which-  
20 ever is greater. The jury shall not be informed of  
21 this limitation.

22 (c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT  
23 COMPLY WITH FDA STANDARDS.—

24 (1) IN GENERAL.—

1 (A) No punitive damages may be awarded  
2 against the manufacturer or distributor of a  
3 medical product, or a supplier of any compo-  
4 nent or raw material of such medical product,  
5 based on a claim that such product caused the  
6 claimant's harm where—

7 (i)(I) such medical product was sub-  
8 ject to premarket approval, clearance, or li-  
9 censure by the Food and Drug Administra-  
10 tion with respect to the safety of the for-  
11 mulation or performance of the aspect of  
12 such medical product which caused the  
13 claimant's harm or the adequacy of the  
14 packaging or labeling of such medical  
15 product; and

16 (II) such medical product was so ap-  
17 proved, cleared, or licensed; or

18 (ii) such medical product is generally  
19 recognized among qualified experts as safe  
20 and effective pursuant to conditions estab-  
21 lished by the Food and Drug Administra-  
22 tion and applicable Food and Drug Admin-  
23 istration regulations, including without  
24 limitation those related to packaging and  
25 labeling, unless the Food and Drug Admin-

1           istration has determined that such medical  
2           product was not manufactured or distrib-  
3           uted in substantial compliance with appli-  
4           cable Food and Drug Administration stat-  
5           utes and regulations.

6           (B) RULE OF CONSTRUCTION.—Subpara-  
7           graph (A) may not be construed as establishing  
8           the obligation of the Food and Drug Adminis-  
9           tration to demonstrate affirmatively that a  
10          manufacturer, distributor, or supplier referred  
11          to in such subparagraph meets any of the con-  
12          ditions described in such subparagraph.

13          (2) LIABILITY OF HEALTH CARE PROVIDERS.—  
14          A health care provider who prescribes, or who dis-  
15          penses pursuant to a prescription, a medical product  
16          approved, licensed, or cleared by the Food and Drug  
17          Administration shall not be named as a party to a  
18          product liability lawsuit involving such product and  
19          shall not be liable to a claimant in a class action  
20          lawsuit against the manufacturer, distributor, or  
21          seller of such product. Nothing in this paragraph  
22          prevents a court from consolidating cases involving  
23          health care providers and cases involving products li-  
24          ability claims against the manufacturer, distributor,  
25          or product seller of such medical product.

1           (3) PACKAGING.—In a health care lawsuit for  
2           harm which is alleged to relate to the adequacy of  
3           the packaging or labeling of a drug which is required  
4           to have tamper-resistant packaging under regula-  
5           tions of the Secretary of Health and Human Serv-  
6           ices (including labeling regulations related to such  
7           packaging), the manufacturer or product seller of  
8           the drug shall not be held liable for punitive dam-  
9           ages unless such packaging or labeling is found by  
10          the trier of fact by clear and convincing evidence to  
11          be substantially out of compliance with such regula-  
12          tions.

13           (4) EXCEPTION.—Paragraph (1) shall not  
14          apply in any health care lawsuit in which—

15           (A) a person, before or after premarket ap-  
16          proval, clearance, or licensure of such medical  
17          product, knowingly misrepresented to or with-  
18          held from the Food and Drug Administration  
19          information that is required to be submitted  
20          under the Federal Food, Drug, and Cosmetic  
21          Act (21 U.S.C. 301 et seq.) or section 351 of  
22          the Public Health Service Act (42 U.S.C. 262)  
23          that is material and is causally related to the  
24          harm which the claimant allegedly suffered

1 (B) a person made an illegal payment to  
2 an official of the Food and Drug Administra-  
3 tion for the purpose of either securing or main-  
4 taining approval, clearance, or licensure of such  
5 medical product; or

6 (C) the defendant caused the medical prod-  
7 uct which caused the claimant's harm to be  
8 misbranded or adulterated (as such terms are  
9 used in chapter V of the Federal Food, Drug,  
10 and Cosmetic Act (21 U.S.C. 351 et seq.)).

11 **SEC. 406. AUTHORIZATION OF PAYMENT OF FUTURE DAM-**  
12 **AGES TO CLAIMANTS IN HEALTH CARE LAW-**  
13 **SUITS.**

14 (a) IN GENERAL.—In any health care lawsuit, if an  
15 award of future damages, without reduction to present  
16 value, equaling or exceeding \$50,000 is made against a  
17 party with sufficient insurance or other assets to fund a  
18 periodic payment of such a judgment, the court shall, at  
19 the request of any party, enter a judgment ordering that  
20 the future damages be paid by periodic payments, in ac-  
21 cordance with the Uniform Periodic Payment of Judg-  
22 ments Act promulgated by the National Conference of  
23 Commissioners on Uniform State Laws.

1 (b) APPLICABILITY.—This section applies to all ac-  
2 tions which have not been first set for trial or retrial be-  
3 fore the effective date of this title.

4 **SEC. 407. DEFINITIONS.**

5 In this title:

6 (1) ALTERNATIVE DISPUTE RESOLUTION SYS-  
7 TEM; ADR.—The term “alternative dispute resolution  
8 system” or “ADR” means a system that provides  
9 for the resolution of health care lawsuits in a man-  
10 ner other than through a civil action brought in a  
11 State or Federal court.

12 (2) CLAIMANT.—The term “claimant” means  
13 any person who brings a health care lawsuit, includ-  
14 ing a person who asserts or claims a right to legal  
15 or equitable contribution, indemnity, or subrogation,  
16 arising out of a health care liability claim or action,  
17 and any person on whose behalf such a claim is as-  
18 serted or such an action is brought, whether de-  
19 ceased, incompetent, or a minor.

20 (3) COMPENSATORY DAMAGES.—The term  
21 “compensatory damages” means objectively  
22 verifiable monetary losses incurred as a result of the  
23 provision of, use of, or payment for (or failure to  
24 provide, use, or pay for) health care services or med-  
25 ical products, such as past and future medical ex-

1       penses, loss of past and future earnings, cost of ob-  
2       taining domestic services, loss of employment, and  
3       loss of business or employment opportunities, dam-  
4       ages for physical and emotional pain, suffering, in-  
5       convenience, physical impairment, mental anguish,  
6       disfigurement, loss of enjoyment of life, loss of soci-  
7       ety and companionship, loss of consortium (other  
8       than loss of domestic service), hedonic damages, in-  
9       jury to reputation, and all other nonpecuniary losses  
10      of any kind or nature. The term “compensatory  
11      damages” includes economic damages and non-  
12      economic damages, as such terms are defined in this  
13      section.

14           (4) CONTINGENT FEE.—The term “contingent  
15      fee” includes all compensation to any person or per-  
16      sons which is payable only if a recovery is effected  
17      on behalf of one or more claimants.

18           (5) ECONOMIC DAMAGES.—The term “economic  
19      damages” means objectively verifiable monetary  
20      losses incurred as a result of the provision of, use  
21      of, or payment for (or failure to provide, use, or pay  
22      for) health care services or medical products, such as  
23      past and future medical expenses, loss of past and  
24      future earnings, cost of obtaining domestic services,



1 loss of employment, and loss of business or employ-  
2 ment opportunities.

3 (6) HEALTH CARE LAWSUIT.—The term  
4 “health care lawsuit” means any health care liability  
5 claim concerning the provision of health care goods  
6 or services or any medical product affecting inter-  
7 state commerce, or any health care liability action  
8 concerning the provision of health care goods or  
9 services or any medical product affecting interstate  
10 commerce, brought in a State or Federal court or  
11 pursuant to an alternative dispute resolution system,  
12 against a health care provider, a health care organi-  
13 zation, or the manufacturer, distributor, supplier,  
14 marketer, promoter, or seller of a medical product,  
15 regardless of the theory of liability on which the  
16 claim is based, or the number of claimants, plain-  
17 tiffs, defendants, or other parties, or the number of  
18 claims or causes of action, in which the claimant al-  
19 leges a health care liability claim. Such term does  
20 not include a claim or action which is based on  
21 criminal liability; which seeks civil fines or penalties  
22 paid to Federal, State, or local government; or which  
23 is grounded in antitrust.

24 (7) HEALTH CARE LIABILITY ACTION.—The  
25 term “health care liability action” means a civil ac-

1       tion brought in a State or Federal court or pursuant  
2       to an alternative dispute resolution system, against  
3       a health care provider, a health care organization, or  
4       the manufacturer, distributor, supplier, marketer,  
5       promoter, or seller of a medical product, regardless  
6       of the theory of liability on which the claim is based,  
7       or the number of plaintiffs, defendants, or other par-  
8       ties, or the number of causes of action, in which the  
9       claimant alleges a health care liability claim.

10           (8) HEALTH CARE LIABILITY CLAIM.—The  
11       term “health care liability claim” means a demand  
12       by any person, whether or not pursuant to ADR,  
13       against a health care provider, health care organiza-  
14       tion, or the manufacturer, distributor, supplier, mar-  
15       keter, promoter, or seller of a medical product, in-  
16       cluding, but not limited to, third-party claims, cross-  
17       claims, counter-claims, or contribution claims, which  
18       are based upon the provision of, use of, or payment  
19       for (or the failure to provide, use, or pay for) health  
20       care services or medical products, regardless of the  
21       theory of liability on which the claim is based, or the  
22       number of plaintiffs, defendants, or other parties, or  
23       the number of causes of action.

24           (9) HEALTH CARE ORGANIZATION.—The term  
25       “health care organization” means any person or en-

1       tity which is obligated to provide or pay for health  
2       benefits under any health plan, including any person  
3       or entity acting under a contract or arrangement  
4       with a health care organization to provide or admin-  
5       ister any health benefit.

6               (10) HEALTH CARE PROVIDER.—The term  
7       “health care provider” means any person or entity  
8       required by State or Federal laws or regulations to  
9       be licensed, registered, or certified to provide health  
10      care services, and being either so licensed, reg-  
11      istered, or certified, or exempted from such require-  
12      ment by other statute or regulation.

13              (11) HEALTH CARE GOODS OR SERVICES.—The  
14      term “health care goods or services” means any  
15      goods or services provided by a health care organiza-  
16      tion, provider, or by any individual working under  
17      the supervision of a health care provider, that relates  
18      to the diagnosis, prevention, or treatment of any  
19      human disease or impairment, or the assessment or  
20      care of the health of human beings.

21              (12) MALICIOUS INTENT TO INJURE.—The  
22      term “malicious intent to injure” means inten-  
23      tionally causing or attempting to cause physical in-  
24      jury other than providing health care goods or serv-  
25      ices.

1           (13) MEDICAL PRODUCT.—The term “medical  
2           product” means a drug, device, or biological product  
3           intended for humans, and the terms “drug”, “de-  
4           vice”, and “biological product” have the meanings  
5           given such terms in sections 201(g)(1) and 201(h)  
6           of the Federal Food, Drug and Cosmetic Act (21  
7           U.S.C. 321(g)(1) and (h)) and section 351(a) of the  
8           Public Health Service Act (42 U.S.C. 262(a)), re-  
9           spectively, including any component or raw material  
10          used therein, but excluding health care services.

11          (14) NONECONOMIC DAMAGES.—The term  
12          “noneconomic damages” means damages for phys-  
13          ical and emotional pain, suffering, inconvenience,  
14          physical impairment, mental anguish, disfigurement,  
15          loss of enjoyment of life, loss of society and compan-  
16          ionship, loss of consortium (other than loss of do-  
17          mestic service), hedonic damages, injury to reputa-  
18          tion, and all other nonpecuniary losses of any kind  
19          or nature.

20          (15) PUNITIVE DAMAGES.—The term “punitive  
21          damages” means damages awarded, for the purpose  
22          of punishment or deterrence, and not solely for com-  
23          pensatory purposes, against a health care provider,  
24          health care organization, or a manufacturer, dis-  
25          tributor, or supplier of a medical product. Punitive

1 damages are neither economic nor noneconomic  
2 damages.

3 (16) RECOVERY.—The term “recovery” means  
4 the net sum recovered after deducting any disburse-  
5 ments or costs incurred in connection with prosecu-  
6 tion or settlement of the claim, including all costs  
7 paid or advanced by any person. Costs of health care  
8 incurred by the plaintiff and the attorneys’ office  
9 overhead costs or charges for legal services are not  
10 deductible disbursements or costs for such purpose.

11 (17) STATE.—The term “State” means each of  
12 the several States, the District of Columbia, the  
13 Commonwealth of Puerto Rico, the Virgin Islands,  
14 Guam, American Samoa, the Northern Mariana Is-  
15 lands, the Trust Territory of the Pacific Islands, and  
16 any other territory or possession of the United  
17 States, or any political subdivision thereof.

18 **SEC. 408. EFFECT ON OTHER LAWS.**

19 (a) VACCINE INJURY.—

20 (1) To the extent that title XXI of the Public  
21 Health Service Act establishes a Federal rule of law  
22 applicable to a civil action brought for a vaccine-re-  
23 lated injury or death—

24 (A) this title does not affect the application  
25 of the rule of law to such an action; and

1 (B) any rule of law prescribed by this title  
2 in conflict with a rule of law of such title XXI  
3 shall not apply to such action.

4 (2) If there is an aspect of a civil action  
5 brought for a vaccine-related injury or death to  
6 which a Federal rule of law under title XXI of the  
7 Public Health Service Act does not apply, then this  
8 title or otherwise applicable law (as determined  
9 under this title) will apply to such aspect of such ac-  
10 tion.

11 (b) OTHER FEDERAL LAW.—Except as provided in  
12 this section, nothing in this title shall be deemed to affect  
13 any defense available to a defendant in a health care law-  
14 suit or action under any other provision of Federal law.

15 **SEC. 409. STATE FLEXIBILITY AND PROTECTION OF**  
16 **STATES' RIGHTS.**

17 (a) HEALTH CARE LAWSUITS.—The provisions gov-  
18 erning health care lawsuits set forth in this title preempt,  
19 subject to subsections (b) and (c), State law to the extent  
20 that State law prevents the application of any provisions  
21 of law established by or under this title. The provisions  
22 governing health care lawsuits set forth in this title super-  
23 sede chapter 171 of title 28, United States Code, to the  
24 extent that such chapter—

1           (1) provides for a greater amount of damages  
2           or contingent fees, a longer period in which a health  
3           care lawsuit may be commenced, or a reduced appli-  
4           cability or scope of periodic payment of future dam-  
5           ages, than provided in this title; or

6           (2) prohibits the introduction of evidence re-  
7           garding collateral source benefits, or mandates or  
8           permits subrogation or a lien on collateral source  
9           benefits.

10          (b) PROTECTION OF STATES' RIGHTS AND OTHER  
11          LAWS.—(1) Any issue that is not governed by any provi-  
12          sion of law established by or under this title (including  
13          State standards of negligence) shall be governed by other-  
14          wise applicable State or Federal law.

15          (2) This title shall not preempt or supersede any  
16          State or Federal law that imposes greater procedural or  
17          substantive protections for health care providers and  
18          health care organizations from liability, loss, or damages  
19          than those provided by this title or create a cause of ac-  
20          tion.

21          (c) STATE FLEXIBILITY.—No provision of this title  
22          shall be construed to preempt—

23                 (1) any State law (whether effective before, on,  
24                 or after the date of the enactment of this Act) that  
25                 specifies a particular monetary amount of compen-

1 satory or punitive damages (or the total amount of  
2 damages) that may be awarded in a health care law-  
3 suit, regardless of whether such monetary amount is  
4 greater or lesser than is provided for under this title,  
5 notwithstanding section 303(a); or

6 (2) any defense available to a party in a health  
7 care lawsuit under any other provision of State or  
8 Federal law.

9 **SEC. 410. APPLICABILITY; EFFECTIVE DATE.**

10 This title shall apply to any health care lawsuit  
11 brought in a Federal or State court, or subject to an alter-  
12 native dispute resolution system, that is initiated on or  
13 after the date of the enactment of this Act, except that  
14 any health care lawsuit arising from an injury occurring  
15 prior to the date of the enactment of this Act shall be  
16 governed by the applicable statute of limitations provisions  
17 in effect at the time the injury occurred.

18 **TITLE V—COMMITTEE ON OVER-**  
19 **SIGHT AND GOVERNMENT RE-**  
20 **FORM**

21 **SEC. 501. RETIREMENT CONTRIBUTIONS.**

22 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

23 (1) INDIVIDUAL CONTRIBUTIONS.—Section  
24 8334(c) of title 5, United States Code, is amended—



1 (A) by striking “(c) Each” and inserting  
2 “(c)(1) Each”; and

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

4 “(2) Notwithstanding any other provision of this sub-  
5 section, the applicable percentage of basic pay under this  
6 subsection shall—

7 “(A) except as provided in subparagraph (B) or  
8 (C), for purposes of computing an amount—

9 “(i) for a period in calendar year 2013, be  
10 equal to the applicable percentage under this  
11 subsection for calendar year 2012, plus an ad-  
12 ditional 1.5 percentage points;

13 “(ii) for a period in calendar year 2014, be  
14 equal to the applicable percentage under this  
15 subsection for calendar year 2013 (as deter-  
16 mined under clause (i)), plus an additional 0.5  
17 percentage point;

18 “(iii) for a period in calendar year 2015,  
19 2016, or 2017, be equal to the applicable per-  
20 centage under this subsection for the preceding  
21 calendar year (as determined under clause (ii)  
22 or this clause, as the case may be), plus an ad-  
23 ditional 1.0 percentage point; and

24 “(iv) for a period in any calendar year  
25 after 2017, be equal to the applicable percent-

1           age under this subsection for calendar year  
2           2017 (as determined under clause (iii));

3           “(B) for purposes of computing an amount with  
4           respect to a Member for Member service—

5                   “(i) for a period in calendar year 2013, be  
6                   equal to the applicable percentage under this  
7                   subsection for calendar year 2012, plus an ad-  
8                   ditional 2.5 percentage points;

9                   “(ii) for a period in calendar year 2014,  
10                  2015, 2016, or 2017, be equal to the applicable  
11                  percentage under this subsection for the pre-  
12                  ceding calendar year (as determined under  
13                  clause (i) or this clause, as the case may be),  
14                  plus an additional 1.5 percentage points; and

15                  “(iii) for a period in any calendar year  
16                  after 2017, be equal to the applicable percent-  
17                  age under this subsection for calendar year  
18                  2017 (as determined under clause (ii)); and

19           “(C) for purposes of computing an amount with  
20           respect to a Member or employee for Congressional  
21           employee service—

22                   “(i) for a period in calendar year 2013, be  
23                   equal to the applicable percentage under this  
24                   subsection for calendar year 2012, plus an ad-  
25                   ditional 2.5 percentage points;

1           “(ii) for a period in calendar year 2014,  
2           2015, 2016, or 2017, be equal to the applicable  
3           percentage under this subsection for the pre-  
4           ceding calendar year (as determined under  
5           clause (i) or this clause, as the case may be),  
6           plus an additional 1.5 percentage points; and

7           “(iii) for a period in any calendar year  
8           after 2017, be equal to the applicable percent-  
9           age under this subsection for calendar year  
10          2017 (as determined under clause (ii)).

11          “(3)(A) Notwithstanding subsection (a)(2), any ex-  
12          cess contributions under subsection (a)(1)(A) (including  
13          the portion of any deposit under this subsection allocable  
14          to excess contributions) shall, if made by an employee of  
15          the United States Postal Service or the Postal Regulatory  
16          Commission, be deposited to the credit of the Postal Serv-  
17          ice Fund under section 2003 of title 39, rather than the  
18          Civil Service Retirement and Disability Fund.

19          “(B) For purposes of this paragraph, the term ‘ex-  
20          cess contributions’, as used with respect to contributions  
21          made under subsection (a)(1)(A) by an employee of the  
22          United States Postal Service or the Postal Regulatory  
23          Commission, means the amount by which—

24                  “(i) deductions from basic pay of such employee  
25                  which are made under subsection (a)(1)(A), exceed

1           “(ii) deductions from basic pay of such em-  
2           ployee which would have been so made if paragraph  
3           (2) had not been enacted.”.

4           (2) GOVERNMENT CONTRIBUTIONS.—Section  
5           8334(a)(1)(B) of title 5, United States Code, is  
6           amended—

7                   (A) in clause (i), by striking “Except as  
8                   provided in clause (ii),” and inserting “Except  
9                   as provided in clause (ii) or (iii),”; and

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

11           “(iii) The amount to be contributed under clause (i)  
12           shall, with respect to a period in any year beginning after  
13           December 31, 2012, be equal to—

14                   “(I) the amount which would otherwise apply  
15                   under clause (i) with respect to such period, reduced  
16                   by

17                   “(II) the amount by which, with respect to such  
18                   period, the withholding under subparagraph (A) ex-  
19                   ceeds the amount which would otherwise have been  
20                   withheld from the basic pay of the employee or elect-  
21                   ed official involved under subparagraph (A) based on  
22                   the percentage applicable under subsection (c) for  
23                   calendar year 2012.”.

24           (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

1           (1) INDIVIDUAL CONTRIBUTIONS.—Section  
2           8422(a)(3) of title 5, United States Code, is amend-  
3           ed—

4                   (A) by redesignating subparagraph (B) as  
5           subparagraph (C);

6                   (B) by inserting after subparagraph (A)  
7           the following:

8           “(B) Notwithstanding any other provision of this  
9           paragraph, the applicable percentage under this para-  
10          graph for civilian service by employees or Members other  
11          than revised annuity employees shall—

12                   “(i) except as provided in clause (ii) or (iii), for  
13          purposes of computing an amount—

14                           “(I) for a period in calendar year 2013, be  
15          equal to the applicable percentage under this  
16          paragraph for calendar year 2012, plus an ad-  
17          ditional 1.5 percentage points;

18                           “(II) for a period in calendar year 2014,  
19          be equal to the applicable percentage under this  
20          paragraph for calendar year 2013 (as deter-  
21          mined under subclause (I)), plus an additional  
22          0.5 percentage point;

23                           “(III) for a period in calendar year 2015,  
24          2016, or 2017, be equal to the applicable per-  
25          centage under this paragraph for the preceding

1 calendar year (as determined under subclause  
2 (II) or this subclause, as the case may be), plus  
3 an additional 1.0 percentage point; and

4 “(IV) for a period in any calendar year  
5 after 2017, be equal to the applicable percent-  
6 age under this paragraph for calendar year  
7 2017 (as determined under subclause (III));

8 “(ii) for purposes of computing an amount with  
9 respect to a Member—

10 “(I) for a period in calendar year 2013, be  
11 equal to the applicable percentage under this  
12 paragraph for calendar year 2012, plus an ad-  
13 ditional 2.5 percentage points;

14 “(II) for a period in calendar year 2014,  
15 2015, 2016, or 2017, be equal to the applicable  
16 percentage under this paragraph for the pre-  
17 ceding calendar year (as determined under sub-  
18 clause (I) or this subclause, as the case may  
19 be), plus an additional 1.5 percentage points;  
20 and

21 “(III) for a period in any calendar year  
22 after 2017, be equal to the applicable percent-  
23 age under this paragraph for calendar year  
24 2017 (as determined under subclause (II)); and

1           “(iii) for purposes of computing an amount  
2 with respect to a Congressional employee—

3           “(I) for a period in calendar year 2013,  
4 2014, 2015, 2016, or 2017, be equal to the ap-  
5 plicable percentage under this paragraph for  
6 the preceding calendar year (including as in-  
7 creased under this subclause, if applicable), plus  
8 an additional 1.5 percentage points; and

9           “(II) for a period in any calendar year  
10 after 2017, be equal to the applicable percent-  
11 age under this paragraph for calendar year  
12 2017 (as determined under subclause (I)).”;  
13 and

14           (C) in subparagraph (C) (as so redesign-  
15 ated by subparagraph (A))—

16           (i) by striking “9.3” each place it ap-  
17 pears and inserting “12”; and

18           (ii) by striking “9.8” each place it ap-  
19 pears and inserting “12.5”.

20           (2) GOVERNMENT CONTRIBUTIONS.—Section  
21 8423(a)(2) of title 5, United States Code, is amend-  
22 ed—

23           (A) by striking “(2)” and inserting  
24 “(2)(A)”; and

25           (B) by adding at the end the following:

1 “(B)(i) Subject to clauses (ii) and (iii), for purposes  
2 of any period in any year beginning after December 31,  
3 2012, the normal-cost percentage under this subsection  
4 shall be determined and applied as if section 501(b)(1)  
5 of the Sequester Replacement Reconciliation Act of 2012  
6 had not been enacted.

7 “(ii) Any contributions under this subsection in ex-  
8 cess of the amounts which (but for clause (i)) would other-  
9 wise have been payable shall be applied toward reducing  
10 the unfunded liability of the Civil Service Retirement Sys-  
11 tem.

12 “(iii) After the unfunded liability of the Civil Service  
13 Retirement System has been eliminated, as determined by  
14 the Office, Government contributions under this sub-  
15 section shall be determined and made disregarding this  
16 subparagraph.

17 “(iv) The preceding provisions of this subparagraph  
18 shall be disregarded for purposes of determining the con-  
19 tributions payable by the United States Postal Service and  
20 the Postal Regulatory Commission.”.

21 **SEC. 502. ANNUITY SUPPLEMENT.**

22 Section 8421(a) of title 5, United States Code, is  
23 amended—

24 (1) in paragraph (1), by striking “paragraph  
25 (3)” and inserting “paragraphs (3) and (4)”;



1           (2) in paragraph (2), by striking “paragraph  
2           (3)” and inserting “paragraphs (3) and (4)”; and

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

4           “(4)(A) Except as provided in subparagraph (B), no  
5 annuity supplement under this section shall be payable in  
6 the case of an individual who first becomes subject to this  
7 chapter after December 31, 2012.

8           “(B) Nothing in this paragraph applies in the case  
9 of an individual separating under subsection (d) or (e) of  
10 section 8412.”.

11 **SEC. 503. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF**  
12                           **PAYMENTS FOR ACCRUED OR ACCUMULATED**  
13                           **LEAVE.**

14           (a) AMENDMENTS RELATING TO CSRS.—Section  
15 8351(b) of title 5, United States Code, is amended—

16           (1) by striking paragraph (2)(A) and inserting  
17 the following:

18           “(2)(A) An employee or Member may contribute to  
19 the Thrift Savings Fund in any pay period any amount  
20 of such employee’s or Member’s basic pay for such pay  
21 period, and may contribute (by direct transfer to the  
22 Fund) any part of any payment that the employee or  
23 Member receives for accumulated and accrued annual or  
24 vacation leave under section 5551 or 5552. Notwith-  
25 standing section 2105(e), in this paragraph the term ‘em-

1 ployee' includes an employee of the United States Postal  
2 Service or of the Postal Regulatory Commission.”;

3 (2) by striking subparagraph (B) of paragraph  
4 (2); and

5 (3) by redesignating subparagraph (C) of para-  
6 graph (2) as subparagraph (B).

7 (b) AMENDMENTS RELATING TO FERS.—Section  
8 8432(a) of title 5, United States Code, is amended—

9 (1) by striking all that precedes paragraph (3)  
10 and inserting the following:

11 “(a)(1) An employee or Member—

12 “(A) may contribute to the Thrift Savings  
13 Fund in any pay period, pursuant to an election  
14 under subsection (b), any amount of such employee’s  
15 or Member’s basic pay for such pay period; and

16 “(B) may contribute (by direct transfer to the  
17 Fund) any part of any payment that the employee  
18 or Member receives for accumulated and accrued an-  
19 nual or vacation leave under section 5551 or 5552.

20 “(2) Contributions made under paragraph (1)(A)  
21 pursuant to an election under subsection (b) shall, with  
22 respect to each pay period for which such election remains  
23 in effect, be made in accordance with a program of regular  
24 contributions provided in regulations prescribed by the  
25 Executive Director.”; and

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

2 “(4) Notwithstanding section 2105(e), in this sub-  
3 section the term ‘employee’ includes an employee of the  
4 United States Postal Service or of the Postal Regulatory  
5 Commission.”.

6 (c) REGULATIONS.—The Executive Director of the  
7 Federal Retirement Thrift Investment Board shall pro-  
8 mulgate regulations to carry out the amendments made  
9 by this section.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 subsections (a) and (b) shall take effect 1 year after the  
12 date of the enactment of this Act.

13 **TITLE VI—COMMITTEE ON WAYS**  
14 **AND MEANS**

15 **Subtitle A—Recapture of Overpay-**  
16 **ments Resulting From Certain**  
17 **Federally-subsidized Health In-**  
18 **surance**

19 **SEC. 601. RECAPTURE OF OVERPAYMENTS RESULTING**  
20 **FROM CERTAIN FEDERALLY-SUBSIDIZED**  
21 **HEALTH INSURANCE.**

22 (a) IN GENERAL.—Paragraph (2) of section 36B(f)  
23 of the Internal Revenue Code of 1986 is amended by strik-  
24 ing subparagraph (B).

1 (b) CONFORMING AMENDMENT.—So much of para-  
2 graph (2) of section 36B(f) of such Code, as amended by  
3 subsection (a), as precedes “advance payments” is amend-  
4 ed to read as follows:

5 “(2) EXCESS ADVANCE PAYMENTS.—If the”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years ending after De-  
8 cember 31, 2013.

9 **Subtitle B—Social Security Num-**  
10 **ber Required to Claim the Re-**  
11 **fundable Portion of the Child**  
12 **Tax Credit**

13 **SEC. 611. SOCIAL SECURITY NUMBER REQUIRED TO CLAIM**  
14 **THE REFUNDABLE PORTION OF THE CHILD**  
15 **TAX CREDIT.**

16 (a) IN GENERAL.—Subsection (d) of section 24 of the  
17 Internal Revenue Code of 1986 is amended by adding at  
18 the end the following new paragraph:

19 “(5) IDENTIFICATION REQUIREMENT WITH RE-  
20 SPECT TO TAXPAYER.—

21 “(A) IN GENERAL.—Paragraph (1) shall  
22 not apply to any taxpayer for any taxable year  
23 unless the taxpayer includes the taxpayer’s So-  
24 cial Security number on the return of tax for  
25 such taxable year.

1           “(B) JOINT RETURNS.—In the case of a  
2 joint return, the requirement of subparagraph  
3 (A) shall be treated as met if the Social Secu-  
4 rity number of either spouse is included on such  
5 return.

6           “(C) LIMITATION.—Subparagraph (A)  
7 shall not apply to the extent the tentative min-  
8 imum tax (as defined in section 55(b)(1)(A))  
9 exceeds the credit allowed under section 32.”.

10       (b) OMISSION TREATED AS MATHEMATICAL OR  
11 CLERICAL ERROR.—Subparagraph (I) of section  
12 6213(g)(2) of such Code is amended to read as follows:

13           “(I) an omission of a correct Social Secu-  
14 rity number required under section 24(d)(5)  
15 (relating to refundable portion of child tax cred-  
16 it), or a correct TIN under section 24(e) (relat-  
17 ing to child tax credit), to be included on a re-  
18 turn,”.

19       (c) CONFORMING AMENDMENT.—Subsection (e) of  
20 section 24 of such Code is amended by inserting “WITH  
21 RESPECT TO QUALIFYING CHILDREN” after “IDENTI-  
22 FICATION REQUIREMENT” in the heading thereof.

23       (d) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 the date of the enactment of this Act.

1           **Subtitle C—Human Resources**  
2                           **Provisions**

3   **SEC. 621. REPEAL OF THE PROGRAM OF BLOCK GRANTS TO**  
4                           **STATES FOR SOCIAL SERVICES.**

5           (a) REPEALS.—Sections 2001 through 2007 of the  
6 Social Security Act (42 U.S.C. 1397–1397f) are repealed.

7           (b) CONFORMING AMENDMENTS.—

8                   (1) Section 404(d) of the Social Security Act  
9 (42 U.S.C. 604(d)) is amended—

10                           (A) in paragraph (1), by striking “any or  
11 all of the following provisions of law:” and all  
12 that follows through “The” and inserting  
13 “the”;

14                           (B) in paragraph (3)—

15                                   (i) by striking “RULES” and all that  
16 follows through “any amount paid” and in-  
17 serting “RULES.—Any amount paid”;

18                                   (ii) by striking “a provision of law  
19 specified in paragraph (1)” and inserting  
20 “the Child Care and Development Block  
21 Grant Act of 1990”; and

22                                   (iii) by striking subparagraph (B);  
23 and

24                           (C) by striking paragraph (2) and redesignig-  
25 nating paragraph (3) as paragraph (2).

1           (2) Section 422(b) of the Social Security Act  
2 (42 U.S.C. 622(b)) is amended—

3           (A) in paragraph (1)(A)—

4                 (i) by striking “administers or super-  
5 vises” and inserting “administered or su-  
6 pervised”; and

7                 (ii) by striking “subtitle 1 of title  
8 XX” and inserting “subtitle A of title XX  
9 (as in effect before the repeal of such sub-  
10 title)”; and

11           (B) in paragraph (2), by striking “under  
12 subtitle 1 of title XX,”.

13           (3) Section 471(a) of the Social Security Act  
14 (42 U.S.C. 671(a)) is amended—

15           (A) in paragraph (4), by striking “, under  
16 subtitle 1 of title XX of this Act,”; and

17           (B) in paragraph (8), by striking “XIX, or  
18 XX” and inserting “or XIX”.

19           (4) Section 472(h)(1) of the Social Security Act  
20 (42 U.S.C. 672(h)(1)) is amended by striking the  
21 2nd sentence.

22           (5) Section 473(b) of the Social Security Act  
23 (42 U.S.C. 673(b)) is amended—

24           (A) in paragraph (1), by striking “(3)”  
25 and inserting “(2)”;

1 (B) in paragraph (4), by striking “para-  
2 graphs (1) and (2)” and inserting “paragraph  
3 (1)”; and

4 (C) by striking paragraph (2) and redesign-  
5 ating paragraphs (3) and (4) as paragraphs  
6 (2) and (3), respectively.

7 (6) Section 504(b)(6) of the Social Security Act  
8 (42 U.S.C. 704(b)(6)) is amended in each of sub-  
9 paragraphs (A) and (B) by striking “XIX, or XX”  
10 and inserting “or XIX”.

11 (7) Section 1101(a)(1) of the Social Security  
12 Act (42 U.S.C. 1301(a)(1)) is amended by striking  
13 the penultimate sentence.

14 (8) Section 1128(h) of the Social Security Act  
15 (42 U.S.C. 1320a-7(h)) is amended—

16 (A) by adding “or” at the end of para-  
17 graph (2); and

18 (B) by striking paragraph (3) and redesign-  
19 ating paragraph (4) as paragraph (3).

20 (9) Section 1128A(i)(1) of the Social Security  
21 Act (42 U.S.C. 1320a-7a(i)(1)) is amended by strik-  
22 ing “or subtitle 1 of title XX”.

23 (10) Section 1132(a)(1) of the Social Security  
24 Act (42 U.S.C. 1320b-2(a)(1)) is amended by strik-  
25 ing “XIX, or XX” and inserting “or XIX”.



1           (11) Section 1902(e)(13)(F)(iii) of the Social  
2 Security Act (42 U.S.C. 1396a(e)(13)(F)(iii)) is  
3 amended—

4           (A) by striking “EXCLUSIONS” and insert-  
5 ing “EXCLUSION”; and

6           (B) by striking “an agency that determines  
7 eligibility for a program established under the  
8 Social Services Block Grant established under  
9 title XX or”.

10          (12) The heading for title XX of the Social Se-  
11 curity Act is amended by striking “BLOCK  
12 GRANTS TO STATES FOR SOCIAL SERVICES”  
13 and inserting “HEALTH PROFESSIONS DEM-  
14 ONSTRATIONS AND ENVIRONMENTAL  
15 HEALTH CONDITION DETECTION”.

16          (13) The heading for subtitle A of title XX of  
17 the Social Security Act is amended by striking  
18 “**Block Grants to States for Social Serv-**  
19 **ices**” and inserting “**Health Professions**  
20 **Demonstrations and Environmental**  
21 **Health Condition Detection**”.

22          (14) Section 16(k)(5)(B)(i) of the Food and  
23 Nutrition Act of 2008 (7 U.S.C. 2025(k)(5)(B)(i))  
24 is amended by striking “, or title XX,”.

1           (15) Section 402(b)(3) of the Personal Respon-  
2           sibility and Work Opportunity Reconciliation Act of  
3           1996 (8 U.S.C. 1612(b)(3)) is amended by striking  
4           subparagraph (B) and redesignating subparagraph  
5           (C) as subparagraph (B).

6           (16) Section 245A(h)(4)(I) of the Immigration  
7           Reform and Control Act of 1986 (8 U.S.C.  
8           1255a(h)(4)(I)) is amended by striking “, XVI, and  
9           XX” and inserting “and XVI”.

10          (17) Section 17 of the Richard B. Russell Na-  
11          tional School Lunch Act (42 U.S.C. 1766) is amend-  
12          ed—

13                (A) in subsection (a)(2)—

14                   (i) in subparagraph (B)—

15                        (I) by striking “—” and all that  
16                        follows through “(i)”;

17                        (II) by striking “or” at the end  
18                        of clause (i); and

19                        (III) by striking clause (ii); and

20                        (ii) in subparagraph (D)(ii), by strik-  
21                        ing “or title XX”; and

22                (B) in subsection (o)(2)(B)—

23                        (i) by striking “or title XX” each  
24                        place it appears; and

25                        (ii) by striking “or XX”.

1           (18) Section 201(b) of the Indian Child Welfare  
2 Act of 1978 (25 U.S.C. 1931(b)) is amended by  
3 striking “titles IV–B and XX” each place it appears  
4 and inserting “part B of title IV”.

5           (19) Section 3803(e)(2)(C) of title 31, United  
6 States Code, is amended by striking clause (vi) and  
7 redesignating clauses (vii) through (xvi) as clauses  
8 (vi) through (xv), respectively.

9           (20) Section 14502(d)(3) of title 40, United  
10 States Code, is amended—

11                   (A) by striking “and title XX”; and

12                   (B) by striking “, 1397 et seq.”.

13           (21) Section 2006(a)(15) of the Public Health  
14 Service Act (42 U.S.C. 300z–5(a)(15)) is amended  
15 by striking “and title XX”.

16           (22) Section 203(b)(3) of the Older Americans  
17 Act of 1965 (42 U.S.C. 3013(b)(3)) is amended by  
18 striking “XIX, and XX” and inserting “and XIX”.

19           (23) Section 213 of the Older Americans Act of  
20 1965 (42 U.S.C. 3020d) is amended by striking “or  
21 title XX”.

22           (24) Section 306(d) of the Older Americans Act  
23 of 1965 (42 U.S.C. 3026(d)) is amended in each of  
24 paragraphs (1) and (2) by striking “titles XIX and  
25 XX” and inserting “title XIX”.

1           (25) Section 2605 of the Low-Income Home  
2           Energy Assistance Act of 1981 (42 U.S.C. 8624) is  
3           amended in each of subsections (b)(4) and (j) by  
4           striking “under title XX of the Social Security  
5           Act,”.

6           (26) Section 602 of the Child Development As-  
7           sociate Scholarship Assistance Act of 1985 (42  
8           U.S.C. 10901) is repealed.

9           (27) Section 3(d)(1) of the Assisted Suicide  
10          Funding Restriction Act of 1997 (42 U.S.C.  
11          14402(d)(1)) is amended by striking subparagraph  
12          (C) and redesignating subparagraphs (D) through  
13          (K) as subparagraphs (C) through (J), respectively.

14          (c) EFFECTIVE DATE.—The repeals and amend-  
15          ments made by this section shall take effect on October  
16          1, 2012.

## 17                   **TITLE VII—SEQUESTER** 18                   **REPLACEMENT**

### 19          **SEC. 701. SHORT TITLE.**

20           This title may be cited as the “Sequester Replace-  
21          ment Act of 2012”.

### 22          **SEC. 702. PROTECTING VETERANS PROGRAMS FROM SE-** 23                   **QUESTER.**

24           Section 256(e)(2)(E) of the Balanced Budget and  
25          Emergency Deficit Control Act of 1985 is repealed.

1 **SEC. 703. ACHIEVING \$19 BILLION IN DISCRETIONARY SAV-**  
2 **INGS.**

3 (a) REVISED 2013 DISCRETIONARY SPENDING  
4 LIMIT.—Paragraph (2) of section 251(c) of the Balanced  
5 Budget and Emergency Deficit Control Act of 1985 is  
6 amended to read as follows:

7 “(2) with respect to fiscal year 2013, for the  
8 discretionary category, \$1,047,000,000,000 in new  
9 budget authority;”.

10 (b) DISCRETIONARY SAVINGS.—Section 251A(7)(A)  
11 of the Balanced Budget and Emergency Deficit Control  
12 Act of 1985 is amended to read as follows:

13 “(A) FISCAL YEAR 2013.—

14 “(i) FISCAL YEAR 2013 ADJUST-  
15 MENT.—On January 2, 2013, the discre-  
16 tionary category set forth in section  
17 251(c)(2) shall be decreased by  
18 \$19,104,000,000 in budget authority.

19 “(ii) SUPPLEMENTAL SEQUESTRATION  
20 ORDER.—On January 15, 2013, OMB  
21 shall issue a supplemental sequestration  
22 report for fiscal year 2013 and take the  
23 form of a final sequestration report as set  
24 forth in section 254(f)(2) and using the  
25 procedures set forth in section 253(f), to  
26 eliminate any discretionary spending

1 breach of the spending limit set forth in  
2 section 251(c)(2) as adjusted by clause (i),  
3 and the President shall order a sequestra-  
4 tion, if any, as required by such report.”.

5 **SEC. 704. CONFORMING AMENDMENTS TO SECTION 314 OF**  
6 **THE CONGRESSIONAL BUDGET AND IM-**  
7 **POUNDMENT CONTROL ACT OF 1974.**

8 Section 314(a) of the Congressional Budget Act of  
9 1974 is amended to read as follows:

10 “(a) ADJUSTMENTS.—

11 “(1) IN GENERAL.—The chair of the Committee  
12 on the Budget of the House of Representatives or  
13 the Senate may make adjustments as set forth in  
14 paragraph (2) for a bill or joint resolution, amend-  
15 ment thereto or conference report thereon, by the  
16 amount of new budget authority and outlays flowing  
17 therefrom in the same amount as required by section  
18 251(b) of the Balanced Budget and Emergency Def-  
19 icit Control Act of 1985.

20 “(2) MATTERS TO BE ADJUSTED.—The chair of  
21 the Committee on the Budget of the House of Rep-  
22 resentatives or the Senate may make the adjust-  
23 ments referred to in paragraph (1) to—

1           “(A) the allocations made pursuant to the  
2           appropriate concurrent resolution on the budget  
3           pursuant to section 302(a);

4           “(B) the budgetary aggregates as set forth  
5           in the appropriate concurrent resolution on the  
6           budget; and

7           “(C) the discretionary spending limits, if  
8           any, set forth in the appropriate concurrent res-  
9           olution on the budget.”.

10 **SEC. 705. TREATMENT FOR PAYGO PURPOSES.**

11           The budgetary effects of this Act and any amendment  
12           made by it shall not be entered on either PAYGO score-  
13           card maintained pursuant to section 4(d) of the Statutory  
14           Pay-As-You-Go Act of 2010.

15 **SEC. 706. ELIMINATION OF THE FISCAL YEAR 2013 SEQUES-**  
16 **TRATION FOR DEFENSE DIRECT SPENDING.**

17           Any sequestration order issued by the President  
18           under the Balanced Budget and Emergency Deficit Con-  
19           trol Act of 1985 to carry out reductions to direct spending  
20           for the defense function (050) for fiscal year 2013 pursu-  
21           ant to section 251A of such Act shall have no force or  
22           effect.

          Passed the House of Representatives May 10, 2012.

Attest:

KAREN L. HAAS,

*Clerk.*

Calendar No. 398

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 5652**

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**AN ACT**

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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MAY 15, 2012

Read the second time and placed on the calendar