

109TH CONGRESS
1ST SESSION

S. 14

To provide fair wages for America's workers, to create new jobs through investment in America, to provide for fair trade and competitiveness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Ms. STABENOW (for herself, Mr. REID, Mr. CORZINE, Mr. KENNEDY, Mr. INOUYE, Ms. MIKULSKI, Mr. DORGAN, Mr. LEAHY, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. DURBIN, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide fair wages for America's workers, to create new jobs through investment in America, to provide for fair trade and competitiveness, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fair Wage, Competition, and Investment Act of 2005”.

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

See. 1. Short title; table of contents.

TITLE I—FAIR WAGES FOR AMERICA’S WORKERS

Subtitle A—Overtime Rights Protection

Sec. 111. Short title.

Sec. 112. Clarification of regulations relating to overtime compensation.

Subtitle B—Fair Minimum Wage

Sec. 121. Short title.

Sec. 122. Minimum wage.

Subtitle C—Sense of the Senate Regarding Multiemployer Pension Plans

Sec. 131. Sense of the Senate regarding multiemployer pension plans.

TITLE II—CREATING NEW JOBS THROUGH INVESTMENT IN AMERICA

Subtitle A—Eliminating Incentives for Outsourcing

Sec. 211. Taxation of income of controlled foreign corporations attributable to imported property.

Sec. 212. Amendments to the Worker Adjustment and Retraining Notification Act.

Subtitle B—Investment in Infrastructure

CHAPTER 1—TRANSPORTATION INFRASTRUCTURE

Sec. 221. Transportation infrastructure funding.

CHAPTER 2—WATER INFRASTRUCTURE

Sec. 231. Water infrastructure funding.

CHAPTER 3—RAIL INFRASTRUCTURE

Sec. 241. Rail infrastructure funding.

Sec. 242. Grant authority.

Sec. 243. Grant conditions for right-of-way projects.

Sec. 244. Use of funds for near-term projects.

Sec. 245. Treatment of rail operators using grant-funded rail infrastructure.

CHAPTER 4—TRANSIT INFRASTRUCTURE

Sec. 251. Transit.

CHAPTER 5—AVIATION INFRASTRUCTURE

Sec. 261. Authorization of appropriations.

Sec. 262. Distribution of funds.

Sec. 263. Nonapplicability of certain laws.

Sec. 264. Use of funds for near-term projects.

CHAPTER 6—BROADBAND ACCESS TAX CREDIT

Sec. 271. Expensing of broadband Internet access expenditures.

CHAPTER 7—RESEARCH AND DEVELOPMENT TAX CREDIT

- Sec. 281. Findings.
- Sec. 282. Permanent extension of research credit.
- Sec. 283. Increase in rates of alternative incremental credit.
- Sec. 284. Alternative simplified credit for qualified research expenses.
- Sec. 285. Expansion of research credit.

Subtitle C—Technology Programs

- Sec. 291. Authorizations of appropriations for the Advanced Technology Program and the Manufacturing Extension Partnership Program.
- Sec. 292. Sense of the Senate promoting science and technology funding for a strong economic future.

TITLE III—FAIR TRADE AND COMPETITIVENESS

Subtitle A—Trade Enforcement Enhancement

- Sec. 311. Identification of trade expansion priorities.
- Sec. 312. Chief enforcement negotiator.
- Sec. 313. Foreign debt.
- Sec. 314. Authorization of appropriations.

Subtitle B—Exchange Rate Policy and Currency Manipulation

- Sec. 321. Negotiations regarding currency valuation.

Subtitle C—Trade Adjustment Assistance

CHAPTER 1—SERVICE WORKERS

- Sec. 331. Short title.
- Sec. 332. Extension of trade adjustment assistance to services sector.
- Sec. 333. Trade adjustment assistance for firms and industries.
- Sec. 334. Monitoring and reporting.
- Sec. 335. Alternative trade adjustment assistance.
- Sec. 336. Effective date.

CHAPTER 2—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

- Sec. 341. Short title.
- Sec. 342. Purpose.
- Sec. 343. Trade adjustment assistance for communities.
- Sec. 344. Conforming amendments.
- Sec. 345. Effective date.

CHAPTER 3—OFFICE OF TRADE ADJUSTMENT ASSISTANCE

- Sec. 351. Short title.
- Sec. 352. Office of Trade Adjustment Assistance.
- Sec. 353. Effective date.

CHAPTER 4—IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

- Sec. 361. Improvement of the affordability of the credit.
- Sec. 362. Offering of Federal fallback coverage.
- Sec. 363. Clarification of eligibility of spouse of certain individuals entitled to medicare.

Subtitle D—Sense of the Senate on Free Trade Agreements

Sec. 371. Sense of the Senate on free trade agreements.

1 **TITLE I—FAIR WAGES FOR**
2 **AMERICA’S WORKERS**
3 **Subtitle A—Overtime Rights**
4 **Protection**

5 **SEC. 111. SHORT TITLE.**

6 This subtitle may be cited as the “Overtime Rights
7 Protection Act of 2005”.

8 **SEC. 112. CLARIFICATION OF REGULATIONS RELATING TO**
9 **OVERTIME COMPENSATION.**

10 Section 13 of the Fair Labor Standards Act of 1938
11 (29 U.S.C. 213) is amended by adding at the end the fol-
12 lowing:

13 “(k)(1) Notwithstanding the provisions of subchapter
14 II of chapter 5 and chapter 7 of title 5, United States
15 Code (commonly referred to as the Administrative Proce-
16 dures Act) or any other provision of law, any portion of
17 the final rule promulgated on April 23, 2004, revising part
18 541 of title 29, Code of Federal Regulations, that exempts
19 from the overtime pay provision of section 7 of this Act
20 any employee who would not otherwise be exempt if the
21 regulations in effect on March 31, 2003, remained in ef-
22 fect, shall have no force or effect and that portion of such
23 regulations (as in effect on March 31, 2003) that would

1 prevent such employee from being exempt shall be rein-
2 stated.

3 “(2) The Secretary shall adjust the minimum salary
4 level for exemption under section 13(a)(1) in the following
5 manner:

6 “(A) Not later than 60 days after the date of
7 enactment of this subsection, the Secretary shall in-
8 crease the minimum salary level for exemption under
9 subsection (a)(1) for executive, administrative, and
10 managerial occupations from the level of \$155 per
11 week in 1975 to \$591 per week (an amount equal
12 to the increase in the Employment Cost Index (pub-
13 lished by the Bureau of Labor Statistics) for execu-
14 tive, administrative, and managerial occupations be-
15 tween 1975 and 2005).

16 “(B) Not later than December 31 of the cal-
17 endar year following the increase required in sub-
18 paragraph (A), and each December 31 thereafter,
19 the Secretary shall increase the minimum salary
20 level for exemption under subsection (a)(1) by an
21 amount equal to the increase in the Employment
22 Cost Index for executive, administrative, and mana-
23 gerial occupations for the year involved.”.

1 **Subtitle B—Fair Minimum Wage**

2 **SEC. 121. SHORT TITLE.**

3 This subtitle may be cited as the “Fair Minimum
4 Wage Act of 2005”.

5 **SEC. 122. MINIMUM WAGE.**

6 (a) IN GENERAL.—Section 6(a)(1) of the Fair Labor
7 Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended
8 to read as follows:

9 “(1) except as otherwise provided in this sec-
10 tion, not less than—

11 “(A) \$5.85 an hour, beginning on the 60th
12 day after the date of enactment of the Fair
13 Minimum Wage Act of 2005;

14 “(B) \$6.55 an hour, beginning 12 months
15 after that 60th day; and

16 “(C) \$7.25 an hour, beginning 24 months
17 after that 60th day;”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect 60 days after the date of
20 enactment of this Act.

1 **Subtitle C—Sense of the Senate Re-**
2 **garding Multiemployer Pension**
3 **Plans**

4 **SEC. 131. SENSE OF THE SENATE REGARDING MULTIE-**
5 **PLOYER PENSION PLANS.**

6 (a) FINDINGS.—The Senate makes the following
7 findings:

8 (1) Multiemployer pension plans have been a
9 major force in the delivery of employee benefits to
10 active and retired American workers and their de-
11 pendents for over half a century.

12 (2) There are approximately 1,700 multiem-
13 ployer defined benefit pension plans in which ap-
14 proximately 9,700,000 workers and retirees partici-
15 pate.

16 (3) Three-quarters of the approximately 60,000
17 to 65,000 employers that participate in multiem-
18 ployer plans have fewer than 100 employees.

19 (4) Multiemployer plans allow for greater access
20 and affordability for smaller employers and pension
21 portability for their employees as they move from
22 one job to another, and permit workers to earn a
23 pension where they might otherwise not be able to
24 do so.

1 (5) The 2000–2002 drop in the stock market
2 and decline in equity values has affected all inves-
3 tors, including multiemployer plans.

4 (6) The decline in value sustained by multiem-
5 ployer defined benefit pension plans have threatened
6 the stability of this private sector source of secure
7 retirement income.

17 (b) SENSE OF THE SENATE.—It is the sense of the
18 Senate that the Senate—

19 (1) expresses its strong support for multiem-
20 ployer defined benefit pension plans;

21 (2) recognizes the importance of an environ-
22 ment in which multiemployer plans can continue
23 their vital role in providing benefits to working men
24 and women;

4 (4) supports legislation to strengthen and pro-
5 tect the viability of multiemployer pension plans for
6 the continued benefit of current and retired mem-
7 bers, and their families and survivors, and to
8 strengthen the ability of all plans to address funding
9 problems that occur.

10 **TITLE II—CREATING NEW JOBS**
11 **THROUGH INVESTMENT IN**
12 **AMERICA**

13 **Subtitle A—Eliminating Incentives** 14 **for Outsourcing**

15 SEC. 211. TAXATION OF INCOME OF CONTROLLED FOREIGN
16 CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.
17

18 (a) GENERAL RULE.—Subsection (a) of section 954
19 of the Internal Revenue Code of 1986 (defining foreign
20 base company income) is amended by striking “and” at
21 the end of paragraph (4), by striking the period at the
22 end of paragraph (5) and inserting “, and”, and by adding
23 at the end the following new paragraph:

1 “(6) imported property income for the taxable
2 year (determined under subsection (j) and reduced
3 as provided in subsection (b)(5)).”.

4 (b) DEFINITION OF IMPORTED PROPERTY IN-
5 COME.—Section 954 of the Internal Revenue Code of 1986
6 is amended by adding at the end the following new sub-
7 section:

8 “(j) IMPORTED PROPERTY INCOME.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)(6), the term ‘imported property income’ means
11 income (whether in the form of profits, commissions,
12 fees, or otherwise) derived in connection with—

13 “(A) manufacturing, producing, growing,
14 or extracting imported property;

15 “(B) the sale, exchange, or other disposi-
16 tion of imported property; or

17 “(C) the lease, rental, or licensing of im-
18 ported property.

19 Such term shall not include any foreign oil and gas
20 extraction income (within the meaning of section
21 907(c)) or any foreign oil related income (within the
22 meaning of section 907(c)).

23 “(2) IMPORTED PROPERTY.—For purposes of
24 this subsection—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this paragraph, the term ‘imported
3 property’ means property which is imported
4 into the United States by the controlled foreign
5 corporation or a related person.

6 “(B) IMPORTED PROPERTY INCLUDES CER-
7 TAIN PROPERTY IMPORTED BY UNRELATED
8 PERSONS.—The term ‘imported property’ in-
9 cludes any property imported into the United
10 States by an unrelated person if, when such
11 property was sold to the unrelated person by
12 the controlled foreign corporation (or a related
13 person), it was reasonable to expect that—

14 “(i) such property would be imported
15 into the United States; or

16 “(ii) such property would be used as
17 a component in other property which would
18 be imported into the United States.

19 “(C) EXCEPTION FOR PROPERTY SUBSE-
20 QUENTLY EXPORTED.—The term ‘imported
21 property’ does not include any property which is
22 imported into the United States and which—

23 “(i) before substantial use in the
24 United States, is sold, leased, or rented by
25 the controlled foreign corporation or a re-

7 “(3) DEFINITIONS AND SPECIAL RULES.—

20 “(C) UNRELATED PERSON.—For purposes
21 of this subsection, the term ‘unrelated person’
22 means any person who is not a related person
23 with respect to the controlled foreign corpora-
24 tion.

1 “(D) COORDINATION WITH FOREIGN BASE
2 COMPANY SALES INCOME.—For purposes of this
3 section, the term ‘foreign base company sales
4 income’ shall not include any imported property
5 income.”.

6 (c) SEPARATE APPLICATION OF LIMITATIONS ON
7 FOREIGN TAX CREDIT FOR IMPORTED PROPERTY IN-
8 COME.—

9 (1) BEFORE 2007.—

10 (A) IN GENERAL.—Paragraph (1) of sec-
11 tion 904(d) of the Internal Revenue Code of
12 1986 (relating to separate application of section
13 with respect to certain categories of income), as
14 in effect for taxable years beginning before Jan-
15 uary 1, 2007, is amended by striking “and” at
16 the end of subparagraph (H), by redesignating
17 subparagraph (I) as subparagraph (J), and by
18 inserting after subparagraph (H) the following
19 new subparagraph:

20 “(I) imported property income, and”.

21 (B) IMPORTED PROPERTY INCOME DE-
22 FINED.—Paragraph (2) of section 904(d) of
23 such Code, as so in effect, is amended by redes-
24 ignating subparagraphs (H) and (I) as subpara-
25 graphs (I) and (J), respectively, and by insert-

8 (C) LOOK-THRU RULES TO APPLY.—Sub-
9 paragraph (F) of section 904(d)(3) of such
10 Code, as so in effect, is amended by striking
11 “or (D)” and inserting “(D), or (I)”.

12 (2) AFTER 2006.—

13 (A) IN GENERAL.—Paragraph (1) of sec-
14 tion 904(d) of such Code (relating to separate
15 application of section with respect to certain
16 categories of income), as in effect for taxable
17 years beginning after December 31, 2006, is
18 amended by striking “and” at the end of sub-
19 paragraph (A), by redesignating subparagraph
20 (B) as subparagraph (C), and by inserting after
21 subparagraph (A) the following new subpara-
22 graph:

23 “(B) imported property income, and”.

24 (B) IMPORTED PROPERTY INCOME DE-
25 FINED.—Paragraph (2) of section 904(d) of

1 such Code, as so in effect, is amended by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

6 “(I) IMPORTED PROPERTY INCOME.—The
7 term ‘imported property income’ means any in-
8 come received or accrued by any person which
9 is of a kind which would be imported property
10 income (as defined in section 954(j)).”.

11 (C) CONFORMING AMENDMENT.—Clause
12 (ii) of section 904(d)(2)(A) of such Code, as so
13 in effect, is amended by inserting “or imported
14 property income” after “passive category in-
15 come”.

16 (d) TECHNICAL AMENDMENTS.—

17 (1) Clause (iii) of section 952(c)(1)(B) of the
18 Internal Revenue Code of 1986 (relating to certain
19 prior year deficits may be taken into account) is
20 amended—

21 (A) by redesignating subclauses (II), (III),
22 (IV), and (V) as subclauses (III), (IV), (V), and
23 (VI), and

24 (B) by inserting after subclause (I) the fol-
25 lowing new subclause:

9 (e) EFFECTIVE DATES.—

1 **SEC. 212. AMENDMENTS TO THE WORKER ADJUSTMENT**2 **AND RETRAINING NOTIFICATION ACT.**

3 (a) DEFINITION.—Section 2(a) of the Worker Ad-
4 justment and Retraining Notification Act (29 U.S.C.
5 2101(a)) is amended—

6 (1) in paragraph (3)(B), by striking “for—”
7 and all that follows through “500 employees” in
8 clause (ii), and inserting “for not less than 50 em-
9 ployees”;

10 (2) in paragraph (7), by striking “and” after
11 the semicolon;

12 (3) in paragraph (8), by striking the period and
13 inserting “; and”; and

14 (4) by adding at the end the following:

15 “(9) the term ‘offshoring of jobs’ means any ac-
16 tion taken by an employer the effect of which is to
17 create, shift, or transfer employment positions or fa-
18 cilities outside the United States and which results
19 in an employment loss during any 30-day period for
20 15 or more employees.”.

21 (b) NOTICE.—Section 3 of the Worker Adjustment
22 and Retraining Notification Act (29 U.S.C. 2102) is
23 amended—

24 (1) in subsection (a)—

25 (A) in the matter preceding paragraph (1),
26 by striking “60-day” and inserting “90-day”;

1 (B) in paragraph (1), by striking “and”
2 after the semicolon;

3 (C) in paragraph (2), by striking the pe-
4 riod and inserting “; and”; and

5 (D) by inserting after paragraph (2), the
6 following:

7 “(3) to the Secretary of Labor.”;

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

12 "(e) NOTICE FOR OFFSHORING OF JOBS.—In the
13 case of a notice under subsection (a) regarding the
14 offshoring of jobs, the notice shall include, in addition to
15 the information otherwise required by the Secretary with
16 respect to other notices under such subsection, informa-
17 tion concerning—

18 “(1) the number of jobs affected;

19 “(2) the location that the jobs are being shifted
20 or transferred to; and

21 “(3) the reasons that such shifting or transfer-
22 ring of jobs is occurring.”.

23 (c) TECHNICAL AMENDMENTS.—The Worker Adjust-
24 ment and Retraining Notification Act (29 U.S.C. 2101 et
25 seq.) is amended—

1 (1) by striking “plant closing or mass layoff”
2 each place that such term appears and inserting
3 “plant closing, mass layoff, or offshoring of jobs”;

4 (2) by striking “closing or layoff” each place
5 that such term appears and inserting “closing, lay-
6 off, or offshoring”;

7 (3) in section 3—

12 (B) in subsection (b)(2)(A), by striking
13 “the closing or mass layoff” and inserting “the
14 closing, layoff, or offshoring”; and

15 (C) in subsection (d), by striking “section
16 2(a) (2) or (3)” and inserting “paragraph (2),
17 (3), or (9) of section 2(a)”;

21 (d) POSTING OF EMPLOYEE RIGHTS.—The Worker
22 Adjustment and Retraining Notification Act (29 U.S.C.
23 2101 et seq.) is amended by adding at the end the fol-
24 lowing:

1 "SEC. 12. POSTING OF NOTICE OF RIGHTS.

2 “(a) DEVELOPMENT.—Not later than 60 days after
3 the date of enactment of this section, the Secretary of
4 Labor shall develop a notice of employee rights under this
5 Act for posting by employers.

6 “(b) POSTING.—Each employer shall post in a con-
7 spicuous place in places of employment the notice of the
8 rights of employees as developed by the Secretary under
9 subsection (a).”.

10 (e) ANNUAL REPORT.—The Worker Adjustment and
11 Retraining Notification Act (29 U.S.C. 2101 et seq.), as
12 amended by subsection (d), is further amended by adding
13 at the end the following:

14 "SEC. 13. CONTENTS OF ANNUAL REPORTS BY THE SEC-

SECRETARY OF LABOR.

16 "(a) IN GENERAL.—The Secretary of Labor shall col-
17 lect and compile statistics based on the information sub-
18 mitted to the Secretary under subsections (a)(3) and (e)
19 of section 3.

20 "(b) REPORT.—Not later than 120 days after the
21 date on which each regular session of Congress com-
22 mences, the Secretary of Labor shall prepare and submit
23 to the President and the appropriate committees of Con-
24 gress a report on the offshoring of jobs (as defined in sec-
25 tion 2(a)(9)). Each such report shall include information
26 concerning—

1 “(1) the number of jobs affected by offshoring;
2 “(2) the locations to which jobs are being shift-
3 ed or transferred;
4 “(3) the reasons why such shifts and transfers
5 are occurring; and
6 “(4) any other relevant data compiled under
7 subsection (a).”.

8 **Subtitle B—Investment in
9 Infrastructure**

10 **CHAPTER 1—TRANSPORTATION
11 INFRASTRUCTURE**

12 **SEC. 221. TRANSPORTATION INFRASTRUCTURE FUNDING.**

13 (a) FUNDING.—

14 (1) AUTHORIZATION OF APPROPRIATIONS.—
15 There is authorized to be appropriated to carry out
16 this chapter for each of fiscal years 2005 and 2006
17 \$7,000,000,000, to remain available until expended.

18 (2) DISTRIBUTION.—The Secretary of Trans-
19 portation, acting through the Administrator of the
20 Federal Highway Administration, shall distribute
21 funds made available under this subsection to States
22 in accordance with section 105 of title 23, United
23 States Code.

24 (b) ADDITIONAL REQUIREMENTS.—

4 (A) section 120 of title 23, United States
5 Code; or

6 (B) any limitation on obligations under
7 any other provision of law.

14 CHAPTER 2—WATER INFRASTRUCTURE

15 SEC. 231. WATER INFRASTRUCTURE FUNDING.

16 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to the Administrator of the
18 Environmental Protection Agency to make grants to
19 States under—

20 (1) title VI of the Federal Water Pollution Con-
21 trol Act (33 U.S.C. 1381 et seq.), \$3,000,000,000
22 for each of fiscal years 2005 and 2006; and

23 (2) section 1452 of the Safe Drinking Water
24 Act (42 U.S.C. 300j-12), \$3,000,000,000 for each
25 of fiscal years 2005 and 2006

1 (b) AVAILABILITY OF FUNDS.—Funds transferred
2 under subsection (a) shall remain available until expended.

3 **CHAPTER 3—RAIL INFRASTRUCTURE**

4 **SEC. 241. RAIL INFRASTRUCTURE FUNDING.**

5 (a) AMOUNT FOR CAPITAL PROJECTS GRANTS.—
6 There is authorized to be appropriated to the Secretary
7 of Transportation for each of fiscal years 2005 and 2006,
8 \$1,500,000,000, which shall be available for the Secretary
9 of Transportation to make grants to States, rail carriers,
10 and other entities as determined by the Secretary of
11 Transportation for intercity passenger and freight railroad
12 capital projects in accordance with this chapter.

13 (b) AVAILABILITY OF FUNDS.—Funds transferred
14 under subsection (a) shall remain available until expended.

15 (c) NONAPPLICABILITY OF CERTAIN PROVISIONS.—
16 Funds made available under this chapter shall not be sub-
17 ject to any limitation on obligations under any other provi-
18 sion of law.

19 **SEC. 242. GRANT AUTHORITY.**

20 (a) PUBLIC BENEFIT PROJECTS.—The Secretary of
21 Transportation shall make grants to States, rail carriers,
22 and other entities, as determined by the Secretary, for
23 intercity passenger and freight railroad capital projects
24 that provide a public benefit, including projects involving
25 the following purposes:

(1) Track and track structure rehabilitation, re-location, improvement, and development.

3 (2) Railroad safety and security improvements.

(3) Communications and signaling improvements.

6 (4) Intercity passenger rail equipment acquisi-
7 tion.

8 (5) Rail station and intermodal facilities devel-
9 opment.

(b) PUBLIC BENEFIT DEFINED.—In this section, the term “public benefit” means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects (as defined by the Secretary after any consultation with State official and rail carriers that the Secretary determines appropriate).

22 SEC. 243. GRANT CONDITIONS FOR RIGHT-OF-WAY
23 PROJECTS.

24 The Secretary of Transportation shall require as a
25 condition of making any grant under this chapter that in-

1 cludes the improvement or use of rights-of-way owned by
2 a railroad that—

3 (1) a written agreement exist between the appli-
4 cant and the railroad regarding such use and owner-
5 ship, including—

6 (A) any compensation for such use;
7 (B) assurances regarding the adequacy of
8 infrastructure capacity to accommodate both
9 existing and future freight and passenger oper-
10 ations; and

11 (C) an assurance by the railroad that col-
12 lective bargaining agreements with the rail-
13 road's employees (including terms regulating
14 the contracting of work) will remain in full
15 force and effect according to their terms for
16 work performed by the railroad on the railroad
17 transportation corridor; and

18 (2) the applicant agrees to comply with—

19 (A) the standards under section 24312 of
20 title 49, United States Code, as such section
21 was in effect on September 1, 2003, with re-
22 spect to the project in the same manner that
23 the National Railroad Passenger Corporation is
24 required to comply with those standards for

1 construction work financed under an agreement
2 made under section; and

3 (B) the protective agreements established
4 under section 504 of the Railroad Revitalization
5 and Regulatory Reform Act of 1976 with re-
6 spect to employees affected by actions taken in
7 connection with the project.

8 **SEC. 244. USE OF FUNDS FOR NEAR-TERM PROJECTS.**

9 The Secretary of Transportation shall ensure, to the
10 maximum extent practicable, that funds made available
11 under this chapter are directed to projects that may be
12 obligated in the near term, as determined by the Secretary
13 of Transportation.

14 **SEC. 245. TREATMENT OF RAIL OPERATORS USING GRANT-**

15 **FUNDED RAIL INFRASTRUCTURE.**

16 A person that conducts rail operations over rail infra-
17 structure constructed or improved with funding provided
18 in whole or in part in a grant made under this chapter—

19 (1) shall be considered an employer for pur-
20 poses of the Railroad Retirement Act of 1974 (45
21 U.S.C. 231 et seq.); and

22 (2) shall be considered a carrier for purposes of
23 the Railway Labor Act (43 U.S.C. 151 et seq.) un-
24 less such a person is an operator with respect to
25 commuter rail passenger transportation (as defined

1 in section 24102(4) of title 49, United States Code)
2 of a State or local government authority (as such
3 terms are defined in section 5302 of such title) eligi-
4 ble to receive financial assistance under section 5307
5 of such title, a contractor performing services in con-
6 nection with the operations with respect to com-
7 muter rail passenger transportation (as so defined),
8 or the Alaska Railroad or its contractors.

9 **CHAPTER 4—TRANSIT INFRASTRUCTURE**

10 **SEC. 251. TRANSIT.**

11 (a) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) AMOUNTS FOR FISCAL YEARS 2005 AND
13 2006.—There is authorized to be appropriated to the
14 Secretary of Transportation for each of the fiscal
15 years 2005 and 2006, \$1,750,000,000.

16 (2) AVAILABILITY OF FUNDS.—Funds appro-
17 priated under paragraph (1) shall remain available
18 until expended.

19 (b) DISTRIBUTION OF FUNDS.—

20 (1) IN GENERAL.—Of the funds authorized to
21 be appropriated under subsection (a)—

22 (A) 50.18 percent shall be available to
23 carry out section 5307 of title 49, United
24 States Code;

1 (B) 45 percent shall be available to carry
2 out section 5309(a)(1) of title 49, United
3 States Code, of which—

4 (i) 40 percent shall be available to
5 carry out subparagraph (A) of such para-
6 graph;

7 (ii) 40 percent shall be available to
8 carry out subparagraph (E) of such para-
9 graph; and

10 (iii) 20 percent shall be available to
11 carry out subparagraph (F) of such para-
12 graph;

13 (C) 1.32 percent shall be available to carry
14 out section 5310 of title 49, United States
15 Code; and

16 (D) 3.5 percent shall be available to carry
17 out section 5311 of title 49, United States
18 Code

24 (3) DETERMINATION BY SECRETARY.—

1 (A) IN GENERAL.—The Secretary of
2 Transportation shall determine the allocation of
3 funds made available under clauses (i) and (iii)
4 of paragraph (1)(B).

5 (B) MODERNIZATION OF EXISTING FIXED
6 GUIDEWAY SYSTEMS.—The Secretary of Trans-
7 portation shall determine the amount appor-
8 tioned to each urbanized area under paragraph
9 (1)(B)(ii) on a pro rata basis in accordance
10 with the distribution formula established under
11 section 5337 of title 49, United States Code.

12 (C) NEAR TERM PROJECTS.—In allocating
13 funds under this paragraph, the Secretary of
14 Transportation shall ensure, to the maximum
15 extent practicable, that funds are directed to
16 near term projects.

17 (c) LIMITATION FOR CAPITAL PROJECTS.—Funds
18 may be used under this section only for capital projects.

19 (d) INAPPLICABILITY OF CERTAIN PROVISIONS.—
20 Funds distributed under subsection (b) shall not be sub-
21 ject to sections 5307(e), 5309(h), or 5311(g) of title 49,
22 United States Code.

1 CHAPTER 5—AVIATION INFRASTRUCTURE**2 SEC. 261. AUTHORIZATION OF APPROPRIATIONS FOR AVIA-
3 TION INFRASTRUCTURE.**

4 There is authorized to be appropriated for each of
5 fiscal years 2005 and 2006 to carry out this chapter,
6 \$1,500,000,000, to remain available until expended.

7 SEC. 262. DISTRIBUTION OF FUNDS.

8 The Secretary of Transportation, acting through the
9 Administrator of the Federal Aviation Administration,
10 shall distribute funds made available under this chapter
11 to public use airports for the purposes provided under
12 chapter 471 of title 49, United States Code, including for
13 enhancement of aviation safety, enhancement of aviation
14 capacity, and defrayment of the cost of security requirements
15 imposed on airport operators by the Administrator or by
16 the Administrator of the Transportation Security Admin-
17 istration.

18 SEC. 263. NONAPPLICABILITY OF CERTAIN LAWS.

19 Funds made available under this chapter shall not be
20 subject to—

21 (1) a matching requirement under section
22 47109 of title 49, United States Code; or
23 (2) any limitation on obligation under any other
24 provision of law.

1 SEC. 264. USE OF FUNDS FOR NEAR-TERM PROJECTS.

2 The Secretary of Transportation shall ensure, to the
3 maximum extent practicable, that funds made available
4 under this chapter are directed to projects that may be
5 obligated in the near-term, as determined by the Secretary
6 of Transportation.

7 CHAPTER 6—BROADBAND ACCESS TAX

8 CREDIT

9 SEC. 271. EXPENSING OF BROADBAND INTERNET ACCESS
10 EXPENDITURES.

11 (a) IN GENERAL.—Part VI of subchapter B of chap-
12 ter 1 of the Internal Revenue Code of 1986 (relating to
13 itemized deductions for individuals and corporations) is
14 amended by inserting after section 190 the following new
15 section:

16 "SEC. 191. BROADBAND EXPENDITURES.

17 "(a) TREATMENT OF EXPENDITURES.—

18 “(1) IN GENERAL.—A taxpayer may elect to
19 treat any qualified broadband expenditure which is
20 paid or incurred by the taxpayer as an expense
21 which is not chargeable to capital account. Any ex-
22 penditure which is so treated shall be allowed as a
23 deduction.

24 “(2) ELECTION.—An election under paragraph
25 (1) shall be made at such time and in such manner
26 as the Secretary may prescribe by regulation.

1 “(b) QUALIFIED BROADBAND EXPENDITURES.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified
4 broadband expenditure’ means, with respect to any
5 taxable year, any direct or indirect costs incurred
6 and properly taken into account with respect to—

7 “(A) the purchase or installation of qualifi-
8 fied equipment (including any upgrades there-
9 to), and

10 “(B) the connection of such qualified
11 equipment to any qualified subscriber.

12 “(2) CERTAIN SATELLITE EXPENDITURES EX-
13 CLUDED.—Such term shall not include any costs in-
14 curred with respect to the launching of any satellite
15 equipment.

16 “(3) LEASED EQUIPMENT.—Such term shall in-
17 clude so much of the purchase price paid by the less-
18 or of qualified equipment subject to a lease de-
19 scribed in subsection (c)(2)(B) as is attributable to
20 expenditures incurred by the lessee which would oth-
21 erwise be described in paragraph (1).

22 “(4) LIMITATION WITH REGARD TO CURRENT
23 GENERATION BROADBAND SERVICES.—Only 50 per-
24 cent of the amounts taken into account under para-
25 graph (1) with respect to qualified equipment

1 through which current generation broadband serv-
2 ices are provided shall be treated as qualified
3 broadband expenditures.

4 “(c) WHEN EXPENDITURES TAKEN INTO AC-
5 COUNT.—For purposes of this section—

6 “(1) IN GENERAL.—Qualified broadband ex-
7 penditures with respect to qualified equipment shall
8 be taken into account with respect to the first tax-
9 able year in which—

10 “(A) current generation broadband services
11 are provided through such equipment to quali-
12 fied subscribers, or

13 “(B) next generation broadband services
14 are provided through such equipment to quali-
15 fied subscribers.

16 “(2) LIMITATION.—

17 “(A) IN GENERAL.—Qualified expenditures
18 shall be taken into account under paragraph (1)
19 only with respect to qualified equipment—

20 “(i) the original use of which com-
21 mences with the taxpayer, and

22 “(ii) which is placed in service, after
23 the date of the enactment of this Act.

24 “(B) SALE-LEASEBACKS.—For purposes of
25 subparagraph (A), if property—

1 “(i) is originally placed in service
2 after the date of the enactment of this Act
3 by any person, and

4 “(ii) sold and leased back by such per-
5 son within 3 months after the date such
6 property was originally placed in service,
7 such property shall be treated as originally
8 placed in service not earlier than the date on
9 which such property is used under the leaseback
10 referred to in clause (ii).

11 “(d) SPECIAL ALLOCATION RULES.—

12 “(1) CURRENT GENERATION BROADBAND SERV-
13 ICES.—For purposes of determining the amount of
14 qualified broadband expenditures under subsection
15 (a)(1) with respect to qualified equipment through
16 which current generation broadband services are
17 provided, if the qualified equipment is capable of
18 serving both qualified subscribers and other sub-
19 scribers, the qualified broadband expenditures shall
20 be multiplied by a fraction—

21 “(A) the numerator of which is the sum of
22 the number of potential qualified subscribers
23 within the rural areas and the underserved
24 areas which the equipment is capable of serving
25 with current generation broadband services, and

1 “(B) the denominator of which is the total
2 potential subscriber population of the area
3 which the equipment is capable of serving with
4 current generation broadband services.

5 “(2) NEXT GENERATION BROADBAND SERV-
6 ICES.—For purposes of determining the amount of
7 qualified broadband expenditures under subsection
8 (a)(1) with respect to qualified equipment through
9 which next generation broadband services are pro-
10 vided, if the qualified equipment is capable of serv-
11 ing both qualified subscribers and other subscribers,
12 the qualified expenditures shall be multiplied by a
13 fraction—

14 “(A) the numerator of which is the sum
15 of—

16 “(i) the number of potential qualified
17 subscribers within the rural areas and un-
18 derserved areas, plus

19 “(ii) the number of potential qualified
20 subscribers within the area consisting only
21 of residential subscribers not described in
22 clause (i),

23 which the equipment is capable of serving with
24 next generation broadband services, and

1 “(B) the denominator of which is the total
2 potential subscriber population of the area
3 which the equipment is capable of serving with
4 next generation broadband services.

5 “(e) DEFINITIONS.—For purposes of this section—
6 “(1) ANTENNA.—The term ‘antenna’ means
7 any device used to transmit or receive signals
8 through the electromagnetic spectrum, including sat-
9 ellite equipment.

10 “(2) CABLE OPERATOR.—The term ‘cable oper-
11 ator’ has the meaning given such term by section
12 602(5) of the Communications Act of 1934 (47
13 U.S.C. 522(5)).

14 “(3) COMMERCIAL MOBILE SERVICE CAR-
15 RIER.—The term ‘commercial mobile service carrier’
16 means any person authorized to provide commercial
17 mobile radio service as defined in section 20.3 of
18 title 47, Code of Federal Regulations.

19 “(4) CURRENT GENERATION BROADBAND SERV-
20 ICE.—The term ‘current generation broadband serv-
21 ice’ means the transmission of signals at a rate of
22 at least 1,000,000 bits per second to the subscriber
23 and at least 128,000 bits per second from the sub-
24 scriber.

1 “(5) MULTIPLEXING OR DEMULTIPLEXING.—

2 The term ‘multiplexing’ means the transmission of 2
3 or more signals over a single channel, and the term
4 ‘demultiplexing’ means the separation of 2 or more
5 signals previously combined by compatible multi-
6 plexing equipment.

7 “(6) NEXT GENERATION BROADBAND SERV-
8 ICE.—The term ‘next generation broadband service’
9 means the transmission of signals at a rate of at
10 least 22,000,000 bits per second to the subscriber
11 and at least 5,000,000 bits per second from the sub-
12 scriber.

13 “(7) NONRESIDENTIAL SUBSCRIBER.—The
14 term ‘nonresidential subscriber’ means any person
15 who purchases broadband services which are deliv-
16 ered to the permanent place of business of such per-
17 son.

18 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
19 term ‘open video system operator’ means any person
20 authorized to provide service under section 653 of
21 the Communications Act of 1934 (47 U.S.C. 573).

22 “(9) OTHER WIRELESS CARRIER.—The term
23 ‘other wireless carrier’ means any person (other than
24 a telecommunications carrier, commercial mobile
25 service carrier, cable operator, open video system op-

1 erator, or satellite carrier) providing current genera-
2 tion broadband services or next generation
3 broadband service to subscribers through the radio
4 transmission of energy.

5 “(10) PACKET SWITCHING.—The term ‘packet
6 switching’ means controlling or routing the path of
7 any digitized transmission signal which is assembled
8 into packets or cells.

9 “(11) PROVIDER.—The term ‘provider’ means,
10 with respect to any qualified equipment—

11 “(A) a cable operator,
12 “(B) a commercial mobile service carrier,
13 “(C) an open video system operator,
14 “(D) a satellite carrier,
15 “(E) a telecommunications carrier, or
16 “(F) any other wireless carrier,
17 providing current generation broadband services or
18 next generation broadband services to subscribers
19 through such qualified equipment.

20 “(12) PROVISION OF SERVICES.—A provider
21 shall be treated as providing services to 1 or more
22 subscribers if—

23 “(A) such a subscriber has been passed by
24 the provider’s equipment and can be connected

1 to such equipment for a standard connection
2 fee,

3 “(B) the provider is physically able to de-
4 liver current generation broadband services or
5 next generation broadband services, as applica-
6 ble, to such a subscriber without making more
7 than an insignificant investment with respect to
8 such subscriber,

9 “(C) the provider has made reasonable ef-
10 forts to make such subscribers aware of the
11 availability of such services,

12 “(D) such services have been purchased by
13 1 or more such subscribers, and

14 “(E) such services are made available to
15 such subscribers at average prices comparable
16 to those at which the provider makes available
17 similar services in any areas in which the pro-
18 vider makes available such services.

19 “(13) QUALIFIED EQUIPMENT.—

20 “(A) IN GENERAL.—The term ‘qualified
21 equipment’ means equipment which provides
22 current generation broadband services or next
23 generation broadband services—

24 “(i) at least a majority of the time
25 during periods of maximum demand to

1 each subscriber who is utilizing such serv-
2 ices, and

3 “(ii) in a manner substantially the
4 same as such services are provided by the
5 provider to subscribers through equipment
6 with respect to which no deduction is al-
7 lowed under subsection (a)(1).

8 “(B) ONLY CERTAIN INVESTMENT TAKEN
9 INTO ACCOUNT.—Except as provided in sub-
10 paragraph (C) or (D), equipment shall be taken
11 into account under subparagraph (A) only to
12 the extent it—

13 “(i) extends from the last point of
14 switching to the outside of the unit, build-
15 ing, dwelling, or office owned or leased by
16 a subscriber in the case of a telecommuni-
17 cations carrier,

18 “(ii) extends from the customer side
19 of the mobile telephone switching office to
20 a transmission/receive antenna (including
21 such antenna) owned or leased by a sub-
22 scriber in the case of a commercial mobile
23 service carrier,

24 “(iii) extends from the customer side
25 of the headend to the outside of the unit,

1 building, dwelling, or office owned or
2 leased by a subscriber in the case of a
3 cable operator or open video system oper-
4 ator, or

5 “(iv) extends from a transmission/re-
6 ceive antenna (including such antenna)
7 which transmits and receives signals to or
8 from multiple subscribers, to a trans-
9 mission/receive antenna (including such
10 antenna) on the outside of the unit, build-
11 ing, dwelling, or office owned or leased by
12 a subscriber in the case of a satellite car-
13 rier or other wireless carrier, unless such
14 other wireless carrier is also a tele-
15 communications carrier.

16 “(C) PACKET SWITCHING EQUIPMENT.—
17 Packet switching equipment, regardless of loca-
18 tion, shall be taken into account under subpara-
19 graph (A) only if it is deployed in connection
20 with equipment described in subparagraph (B)
21 and is uniquely designed to perform the func-
22 tion of packet switching for current generation
23 broadband services or next generation
24 broadband services, but only if such packet
25 switching is the last in a series of such func-

5 “(D) MULTIPLEXING AND
6 DEMULITPLEXING EQUIPMENT.—Multiplexing
7 and demultiplexing equipment shall be taken
8 into account under subparagraph (A) only to
9 the extent it is deployed in connection with
10 equipment described in subparagraph (B) and
11 is uniquely designed to perform the function of
12 multiplexing and demultiplexing packets or cells
13 of data and making associated application
14 adaptons, but only if such multiplexing or
15 demultiplexing equipment is located between
16 packet switching equipment described in sub-
17 paragraph (C) and the subscriber’s premises.

18 “(14) QUALIFIED SUBSCRIBER.—The term
19 ‘qualified subscriber’ means—

20 “(A) with respect to the provision of cur-
21 rent generation broadband services—

1 “(ii) any residential subscriber residing
2 in a dwelling located in a rural area or
3 underserved area which is not a saturated
4 market, and

5 “(B) with respect to the provision of next
6 generation broadband services—

7 “(i) any nonresidential subscriber
8 maintaining a permanent place of business
9 in a rural area or underserved area, or

10 “(ii) any residential subscriber.

11 “(15) RESIDENTIAL SUBSCRIBER.—The term
12 ‘residential subscriber’ means any individual who
13 purchases broadband services which are delivered to
14 such individual’s dwelling.

15 “(16) RURAL AREA.—The term ‘rural area’
16 means any census tract which—

17 “(A) is not within 10 miles of any incorporated
18 or census designated place containing
19 more than 25,000 people, and

20 “(B) is not within a county or county
21 equivalent which has an overall population density
22 of more than 500 people per square mile of
23 land.

24 “(17) RURAL SUBSCRIBER.—The term ‘rural
25 subscriber’ means any residential subscriber residing

1 in a dwelling located in a rural area or nonresiden-
2 tial subscriber maintaining a permanent place of
3 business located in a rural area.

4 “(18) SATELLITE CARRIER.—The term ‘sat-
5 ellite carrier’ means any person using the facilities
6 of a satellite or satellite service licensed by the Fed-
7 eral Communications Commission and operating in
8 the Fixed-Satellite Service under part 25 of title 47
9 of the Code of Federal Regulations or the Direct
10 Broadcast Satellite Service under part 100 of title
11 47 of such Code to establish and operate a channel
12 of communications for distribution of signals, and
13 owning or leasing a capacity or service on a satellite
14 in order to provide such point-to-multipoint distribu-
15 tion.

16 “(19) SATURATED MARKET.—The term ‘satu-
17 rated market’ means any census tract in which, as
18 of the date of the enactment of this section—

19 “(A) current generation broadband services
20 have been provided by a single provider to 85
21 percent or more of the total number of potential
22 residential subscribers residing in dwellings lo-
23 cated within such census tract, and

24 “(B) such services can be utilized—

1 “(i) at least a majority of the time
2 during periods of maximum demand by
3 each such subscriber who is utilizing such
4 services, and

5 “(ii) in a manner substantially the
6 same as such services are provided by the
7 provider to subscribers through equipment
8 with respect to which no deduction is al-
9 lowed under subsection (a)(1).

10 “(20) SUBSCRIBER.—The term ‘subscriber’
11 means any person who purchases current generation
12 broadband services or next generation broadband
13 services.

14 “(21) TELECOMMUNICATIONS CARRIER.—The
15 term ‘telecommunications carrier’ has the meaning
16 given such term by section 3(44) of the Communica-
17 tions Act of 1934 (47 U.S.C. 153(44)), but—

18 “(A) includes all members of an affiliated
19 group of which a telecommunications carrier is
20 a member, and

21 “(B) does not include a commercial mobile
22 service carrier.

23 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-
24 LATION.—The term ‘total potential subscriber popu-
25 lation’ means, with respect to any area and based on

1 the most recent census data, the total number of po-
2 tential residential subscribers residing in dwellings
3 located in such area and potential nonresidential
4 subscribers maintaining permanent places of busi-
5 ness located in such area.

6 “(23) UNDERSERVED AREA.—The term ‘under-
7 served area’ means—

8 “(A) any census tract which is located in—
9 “(i) an empowerment zone or enter-
10 prise community designated under section
11 1391, or

12 “(ii) the District of Columbia Enter-
13 prise Zone established under section 1400,
14 or

15 “(B) any census tract—
16 “(i) the poverty level of which is at
17 least 30 percent (based on the most recent
18 census data), and

19 “(ii) the median family income of
20 which does not exceed—

21 “(I) in the case of a census tract
22 located in a metropolitan statistical
23 area, 70 percent of the greater of the
24 metropolitan area median family in-

1 come or the statewide median family
2 income, and

8 “(24) UNDERSERVED SUBSCRIBER.—The term
9 ‘underserved subscriber’ means any residential sub-
10 scriber residing in a dwelling located in an under-
11 served area or nonresidential subscriber maintaining
12 a permanent place of business located in an under-
13 served area.

14 "(f) SPECIAL RULES.—

15 “(1) PROPERTY USED OUTSIDE THE UNITED
16 STATES, ETC., NOT QUALIFIED.—No expenditures
17 shall be taken into account under subsection (a)(1)
18 with respect to the portion of the cost of any prop-
19 erty referred to in section 50(b) or with respect to
20 the portion of the cost of any property specified in
21 an election under section 179.

22 "(2) BASIS REDUCTION.—

23 “(A) IN GENERAL.—For purposes of this
24 title, the basis of any property shall be reduced

1 by the portion of the cost of such property
2 taken into account under subsection (a)(1).

3 “(B) ORDINARY INCOME RECAPTURE.—
4 For purposes of section 1245, the amount of
5 the deduction allowable under subsection (a)(1)
6 with respect to any property which is of a char-
7 acter subject to the allowance for depreciation
8 shall be treated as a deduction allowed for de-
9 preciation under section 167.

10 “(3) COORDINATION WITH SECTION 38.—No
11 credit shall be allowed under section 38 with respect
12 to any amount for which a deduction is allowed
13 under subsection (a)(1).”.

14 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
15 TELEPHONE COMPANIES.—Section 512(b) of the Internal
16 Revenue Code of 1986 (relating to modifications) is
17 amended—

18 (1) by redesignating paragraph (18) as added
19 by section 702(a) of the American Jobs Creation Act
20 of 2004 as paragraph (19), and

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

23 “(20) SPECIAL RULE FOR MUTUAL OR COOPER-
24 ATIVE TELEPHONE COMPANIES.—A mutual or coop-
25 erative telephone company which for the taxable year

1 satisfies the requirements of section 501(c)(12)(A)
2 may elect to reduce its unrelated business taxable in-
3 come for such year, if any, by an amount that does
4 not exceed the qualified broadband expenditures
5 which would be taken into account under section
6 191 for such year by such company if such company
7 was not exempt from taxation. Any amount which is
8 allowed as a deduction under this paragraph shall
9 not be allowed as a deduction under section 191 and
10 the basis of any property to which this paragraph
11 applies shall be reduced under section
12 1016(a)(32).”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 263(a)(1) of the Internal Revenue
15 Code of 1986 (relating to capital expenditures) is
16 amended by striking “or” at the end of subpara-
17 graph (H), by striking the period at the end of sub-
18 paragraph (I) and inserting “, or”, and by adding
19 at the end the following new subparagraph:

20 “(J) expenditures for which a deduction is
21 allowed under section 191.”.

22 (2) Section 1016(a) of such Code is amended
23 by striking “and” at the end of paragraph (30), by
24 striking the period at the end of paragraph (31) and

1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(32) to the extent provided in section
4 191(f)(2).”.

5 (3) The table of sections for part VI of sub-
6 chapter A of chapter 1 of such Code is amended by
7 inserting after the item relating to section 190 the
8 following new item:

“Sec. 191. Broadband expenditures.”.

9 (d) DESIGNATION OF CENSUS TRACTS.—

10 (1) IN GENERAL.—The Secretary of the Treas-
11 ury shall, not later than 90 days after the date of
12 the enactment of this Act, designate and publish
13 those census tracts meeting the criteria described in
14 paragraphs (16), (22), and (23) of section 191(e) of
15 the Internal Revenue Code of 1986 (as added by
16 this section). In making such designations, the Sec-
17 retary of the Treasury shall consult with such other
18 departments and agencies as the Secretary deter-
19 mines appropriate.

20 (2) SATURATED MARKET.—

21 (A) IN GENERAL.—For purposes of desig-
22 nating and publishing those census tracts meet-
23 ing the criteria described in subsection (e)(19)
24 of such section 191—

1 (i) the Secretary of the Treasury shall
2 prescribe not later than 30 days after the
3 date of the enactment of this Act the form
4 upon which any provider which takes the
5 position that it meets such criteria with re-
6 spect to any census tract shall submit a
7 list of such census tracts (and any other
8 information required by the Secretary) not
9 later than 60 days after the date of the
10 publication of such form, and

11 (ii) the Secretary of the Treasury
12 shall publish an aggregate list of such cen-
13 sus tracts and the applicable providers not
14 later than 30 days after the last date such
15 submissions are allowed under clause (i).

16 (B) NO SUBSEQUENT LISTS REQUIRED.—
17 The Secretary of the Treasury shall not be re-
18 quired to publish any list of census tracts meet-
19 ing such criteria subsequent to the list de-
20 scribed in subparagraph (A)(ii).

21 (e) OTHER REGULATORY MATTERS.—

22 (1) PROHIBITION.—No Federal or State agency
23 or instrumentality shall adopt regulations or rate-
24 making procedures that would have the effect of
25 eliminating or reducing any deduction or portion

1 thereof allowed under section 191 of the Internal
2 Revenue Code of 1986 (as added by this section) or
3 otherwise subverting the purpose of this section.

4 (2) TREASURY REGULATORY AUTHORITY.—It is
5 the intent of Congress in providing the election to
6 deduct qualified broadband expenditures under sec-
7 tion 191 of the Internal Revenue Code of 1986 (as
8 added by this section) to provide incentives for the
9 purchase, installation, and connection of equipment
10 and facilities offering expanded broadband access to
11 the Internet for users in certain low income and
12 rural areas of the United States, as well as to resi-
13 dential users nationwide, in a manner that main-
14 tains competitive neutrality among the various class-
15 es of providers of broadband services. Accordingly,
16 the Secretary of the Treasury shall prescribe such
17 regulations as may be necessary or appropriate to
18 carry out the purposes of section 191 of such Code,
19 including—

20 (A) regulations to determine how and when
21 a taxpayer that incurs qualified broadband ex-
22 penditures satisfies the requirements of section
23 191 of such Code to provide broadband serv-
24 ices, and

1 (B) regulations describing the information,
2 records, and data taxpayers are required to pro-
3 vide the Secretary to substantiate compliance
4 with the requirements of section 191 of such
5 Code.

6 (f) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to expenditures incurred after the
8 date of the enactment of this Act and before the date
9 which is 60 months after the date of the enactment of
10 this Act.

CHAPTER 7—RESEARCH AND DEVELOPMENT TAX CREDIT

13 SEC. 281. FINDINGS.

14 Congress finds the following:

15 (1) Research and development performed in the
16 United States results in quality jobs, better and
17 safer products, increased ownership of technology-
18 based intellectual property, and higher productivity
19 in the United States.

20 (2) Since 1994, private sector research and de-
21 velopment employment has grown at a faster rate
22 than overall private sector employment in the United
23 States. From 1994 to 2000, there was an average
24 annual growth rate of 5.4 percent in research and

1 development employment, compared with 2.7 percent
2 in total employment.

3 (3) The extent to which companies perform and
4 increase research and development activities in the
5 United States is in part dependent on Federal tax
6 policy.

7 (4) The private sector performed most of the
8 Nation's research and development and accounted
9 for more than two-thirds of total research and devel-
10 opment performance in 2003. Of the
11 \$194,000,000,000 in industrial research and devel-
12 opment performed in 2003, more than 90 percent
13 was funded by industry.

14 (5) Many of the countries with which the
15 United States competes have introduced new or re-
16 vised national plans for science, technology, and in-
17 novation policy, and a growing number of countries
18 have established targets for increased research and
19 development spending. Virtually all countries are
20 seeking ways to enhance the quality and efficiency of
21 public research, stimulate business investments in
22 research and development, and strengthen linkages
23 between the public and private sectors.

24 (6) Direct government support to business re-
25 search and development has declined, both in abso-

1 lute terms and as a share of business research and
2 development, and greater emphasis is being placed
3 on indirect measures, such as tax incentives for re-
4 search and development.

5 (7) Congress should make permanent a re-
6 search and development credit that provides a mean-
7 ingful incentive to all types of taxpayers.

8 **SEC. 282. PERMANENT EXTENSION OF RESEARCH CREDIT.**

9 (a) IN GENERAL.—Section 41 of the Internal Rev-
10 enue Code of 1986 (relating to credit for increasing re-
11 search activities) is amended by striking subsection (h).

12 (b) CONFORMING AMENDMENT.—Paragraph (1) of
13 section 45C(b) of such Code is amended by striking sub-
14 paragraph (D).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid or incurred after
17 the date of the enactment of this Act, in taxable years
18 ending after such date.

19 **SEC. 283. INCREASE IN RATES OF ALTERNATIVE INCRE-
20 MENTAL CREDIT.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 41(c)(4) of the Internal Revenue Code of 1986 (relating
23 to election of alternative incremental credit) is amended—

24 (1) by striking “2.65 percent” and inserting “3
25 percent”,

3 (3) by striking “3.75 percent” and inserting “5
4 percent”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years ending after the
7 date of the enactment of this Act.

8 SEC. 284. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-
9 FIED RESEARCH EXPENSES.

10 (a) IN GENERAL.—Subsection (c) of section 41 of the
11 Internal Revenue Code of 1986 (relating to base amount)
12 is amended by redesignating paragraphs (5) and (6) as
13 paragraphs (6) and (7), respectively, and by inserting
14 after paragraph (4) the following new paragraph:

15 “(5) ELECTION OF ALTERNATIVE SIMPLIFIED
16 CREDIT.—

17 “(A) IN GENERAL.—At the election of the
18 taxpayer, the credit determined under sub-
19 section (a)(1) shall be equal to 12 percent of so
20 much of the qualified research expenses for the
21 taxable year as exceeds 50 percent of the aver-
22 age qualified research expenses for the 3 tax-
23 able years preceding the taxable year for which
24 the credit is being determined.

1 “(B) SPECIAL RULE IN CASE OF NO
2 QUALIFIED RESEARCH EXPENSES IN ANY OF 3
3 PRECEDING TAXABLE YEARS.—

4 “(i) TAXPAYERS TO WHICH SUBPARA-
5 GRAPH APPLIES.—The credit under this
6 paragraph shall be determined under this
7 subparagraph if the taxpayer has no quali-
8 fied research expenses in any 1 of the 3
9 taxable years preceding the taxable year
10 for which the credit is being determined.

11 “(ii) CREDIT RATE.—The credit de-
12 termined under this subparagraph shall be
13 equal to 6 percent of the qualified research
14 expenses for the taxable year.

15 “(C) ELECTION.—An election under this
16 paragraph shall apply to the taxable year for
17 which made and all succeeding taxable years
18 unless revoked with the consent of the Sec-
19 retary. An election under this paragraph may
20 not be made for any taxable year to which an
21 election under paragraph (4) applies.”.

22 (b) COORDINATION WITH ELECTION OF ALTER-
23 NATIVE INCREMENTAL CREDIT.—

24 (1) IN GENERAL.—Section 41(c)(4)(B) of the
25 Internal Revenue Code of 1986 (relating to election)

1 is amended by adding at the end the following: “An
2 election under this paragraph may not be made for
3 any taxable year to which an election under para-
4 graph (5) applies.”.

5 (2) TRANSITION RULE.—In the case of an elec-
6 tion under section 41(c)(4) of the Internal Revenue
7 Code of 1986 which applies to the taxable year
8 which includes the date of the enactment of this Act,
9 such election shall be treated as revoked with the
10 consent of the Secretary of the Treasury if the tax-
11 payer makes an election under section 41(c)(5) of
12 such Code (as added by subsection (a)) for such
13 year.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years ending after the
16 date of the enactment of this Act.

17 **SEC. 285. EXPANSION OF RESEARCH CREDIT.**

18 (a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-
19 TAIN COLLABORATIVE RESEARCH CONSORTIA.—

20 (1) IN GENERAL.—Section 41(a) of the Internal
21 Revenue Code of 1986 (relating to credit for increas-
22 ing research activities) is amended by striking “and”
23 at the end of paragraph (1), by striking the period
24 at the end of paragraph (2) and inserting “, and”,

1 and by adding at the end the following new para-
2 graph:

3 “(3) 20 percent of the amounts paid or in-
4 curred by the taxpayer in carrying on any trade or
5 business of the taxpayer during the taxable year (in-
6 cluding as contributions) to a research consortium.”.

7 (2) RESEARCH CONSORTIUM DEFINED.—Sec-
8 tion 41(f) of such Code (relating to special rules) is
9 amended by adding at the end the following new
10 paragraph:

11 “(6) RESEARCH CONSORTIUM.—

12 “(A) IN GENERAL.—The term ‘research
13 consortium’ means any organization—

14 “(i) which is—

15 “(I) described in section
16 501(c)(3) or 501(c)(6) and is exempt
17 from tax under section 501(a) and is
18 organized and operated primarily to
19 conduct research, or

20 “(II) organized and operated pri-
21 marily to conduct research in the pub-
22 lic interest (within the meaning of sec-
23 tion 501(c)(3)),

24 “(ii) which is not a private founda-
25 tion,

1 “(iii) to which at least 5 unrelated
2 persons paid or incurred during the cal-
3 endar year in which the taxable year of the
4 organization begins amounts (including as
5 contributions) to such organization for re-
6 search, and

7 “(iv) to which no single person paid
8 or incurred (including as contributions)
9 during such calendar year an amount
10 equal to more than 50 percent of the total
11 amounts received by such organization
12 during such calendar year for research.

13 “(B) TREATMENT OF PERSONS.—All per-
14 sons treated as a single employer under sub-
15 section (a) or (b) of section 52 shall be treated
16 as related persons for purposes of subparagraph
17 (A)(iii) and as a single person for purposes of
18 subparagraph (A)(iv).”.

19 (3) CONFORMING AMENDMENT.—Section
20 41(b)(3)(C)(ii) of such Code is amended by inserting
21 “(other than a research consortium)” after “organi-
22 zation”.

23 (b) REPEAL OF LIMITATION ON CONTRACT RE-
24 SEARCH EXPENSES PAID TO SMALL BUSINESSES, UNI-
25 VERSITIES, AND FEDERAL LABORATORIES.—Section

1 41(b)(3) of the Internal Revenue Code of 1986 (relating
2 to contract research expenses) is amended by adding at
3 the end the following new subparagraph:

4 “(D) AMOUNTS PAID TO ELIGIBLE SMALL
5 BUSINESSES, UNIVERSITIES, AND FEDERAL
6 LABORATORIES.—

7 “(i) IN GENERAL.—In the case of
8 amounts paid by the taxpayer to—

9 “(I) an eligible small business,
10 “(II) an institution of higher
11 education (as defined in section
12 3304(f)), or

13 “(III) an organization which is a
14 Federal laboratory,

15 for qualified research, subparagraph (A)
16 shall be applied by substituting ‘100 per-
17 cent’ for ‘65 percent’.

18 “(ii) ELIGIBLE SMALL BUSINESS.—
19 For purposes of this subparagraph, the
20 term ‘eligible small business’ means a
21 small business with respect to which the
22 taxpayer does not own (within the meaning
23 of section 318) 50 percent or more of—

1 “(I) in the case of a corporation,
2 the outstanding stock of the corpora-
3 tion (either by vote or value), and

4 “(II) in the case of a small busi-
5 ness which is not a corporation, the
6 capital and profits interests of the
7 small business.

8 “(iii) SMALL BUSINESS.—For pur-
9 poses of this subparagraph—

10 “(I) IN GENERAL.—The term
11 ‘small business’ means, with respect
12 to any calendar year, any person if
13 the annual average number of employ-
14 ees employed by such person during
15 either of the 2 preceding calendar
16 years was 500 or fewer. For purposes
17 of the preceding sentence, a preceding
18 calendar year may be taken into ac-
19 count only if the person was in exist-
20 ence throughout the year.

21 “(II) STARTUPS, CONTROLLED
22 GROUPS, AND PREDECESSORS.—Rules
23 similar to the rules of subparagraphs
24 (B) and (D) of section 220(c)(4) shall
25 apply for purposes of this clause.

1 “(iv) FEDERAL LABORATORY.—For
2 purposes of this subparagraph, the term
3 ‘Federal laboratory’ has the meaning given
4 such term by section 4(6) of the Steven-
5 son-Wydler Technology Innovation Act of
6 1980 (15 U.S.C. 3703(6)), as in effect on
7 the date of the enactment of this subpara-
8 graph.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid or incurred after
11 the date of the enactment of this Act, in taxable years
12 ending after such date.

13 **Subtitle C—Technology Programs**

14 **SEC. 291. AUTHORIZATIONS OF APPROPRIATIONS FOR THE** 15 **ADVANCED TECHNOLOGY PROGRAM AND** 16 **THE MANUFACTURING EXTENSION PARTNER-** 17 **SHIP PROGRAM.**

18 (a) ADVANCED TECHNOLOGY PROGRAM.—
19 (1) FINDINGS.—Congress makes the following
20 findings:

21 (A) The Advanced Technology Program
22 (ATP) has played an important role in helping
23 United States companies develop new, break-
24 through technologies. ATP has funded research
25 ranging from cancer vaccines, to hi-tech flexible

1 displays, to composite materials, to fuel cells,
2 all of which are the kinds of technological ad-
3 vances that give the United States a competi-
4 tive advantage globally.

5 (B) The National Academy of Science has
6 found it to be an effective program that could
7 use more funding wisely, and the National As-
8 sociation of Manufacturers (NAM), the Bio-
9 technology Industry Organization (BIO), the
10 Industrial Research Institute, the Alliance for
11 Science and Technology Research in America,
12 and the American Chemical Society support
13 ATP.

14 (C) Businesses need this type of program
15 more than ever as venture capital funds have
16 become more scarce in the current economy.
17 ATP bridges this gap between the research lab
18 and market capital, facilitating the critical
19 transfer of technology to the private sector that
20 leads to the development of products and serv-
21 ices that make use of new, technological break-
22 throughs.

23 (D) Not only does ATP promote economic
24 security and global competitiveness for the na-
25 tion as a whole, it is an important program for

1 generating jobs domestically. Last year nearly
2 80 percent of ATP awards went to small busi-
3 nesses, an essential job-creating sector in the
4 United States economy.

5 (E) ATP is also vital to the homeland se-
6 curity of the United States. ATP has funded
7 many projects in detection, preparedness, pre-
8 vention and response with significant applica-
9 tions for homeland security. With continued fi-
10 nancial support through ATP to develop these
11 projects and their security applications, the
12 United States will become more secure.

13 (F) Despite the importance and success of
14 ATP, current funding levels do not meet the de-
15 mand. Over 1,000 proposals for ATP funding
16 that were submitted in 2002 yielded enough
17 high quality projects for the ATP funding that
18 was available in both fiscal years 2002 and
19 2003. The 870 applications for ATP funding
20 received in fiscal year 2004 made the second
21 highest number of applications for ATP funding
22 that were received in any fiscal year, but fund-
23 ing was only available for 59 awards. No fund-
24 ing for new awards is available in fiscal year
25 2005.

1 (G) According to the 2004 annual report
2 on the ATP, returns from just 41 of the 736
3 ATP projects have exceeded \$17,000,000,000
4 in economic benefits, more than 8 times the
5 amount of money spent on all 736 projects.

6 (2) AUTHORIZATION OF APPROPRIATIONS.—

7 There are authorized to be appropriated to the Sec-
8 retary of Commerce for the Advanced Technology
9 Program of the National Institute of Standards and
10 Technology—

15 (b) MANUFACTURING EXTENSION PARTNERSHIP

16 PROGRAM.—

17 (1) FINDINGS.—Congress makes the following
18 findings:

19 (A) Small- and medium-sized manufacturers in the United States employ 7,000,000 people and contribute \$711,000,000,000, or 7 percent of the Gross Domestic Product to the United States economy. The Hollings Manufacturing Extension Partnership (MEP) Program supports a network of locally run centers that

1 provide technical advice and consulting to these
2 firms in all fifty States and Puerto Rico. Since
3 its inception, the Hollings MEP Program has
4 assisted 149,000 of the 380,000 small and me-
5 dium-sized manufacturers in the United States.

6 (B) The Hollings MEP Program is a prov-
7 en program. Studies show that Hollings MEP
8 Program manufacturers have four times more
9 productivity growth than non-MEP firms, and
10 the program has proven to lead to increased
11 sales, increased capital investment, cost savings
12 and the creation or retention of jobs in the
13 United States.

14 (C) The Hollings MEP Program is more
15 important today than ever as the Nation faces
16 a looming current account deficit. The United
17 States has lost over 880,000 manufacturing
18 jobs during 2003 and 2004. Such manufac-
19 turing jobs pay on average 19 percent higher
20 wages than the industry average.

21 (D) The Hollings MEP Program is not
22 just about economic security. Manufacturers
23 with fewer than 500 employees comprise more
24 than 80 percent of the suppliers in key defense

1 sectors. Helping such manufacturers helps the
2 national security of the United States.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—
4 There are authorized to be appropriated to the Sec-
5 retary of Commerce for the Hollings Manufacturing
6 Extension Partnership Program of the National In-
7 stitute of Standards and Technology—

8 (A) \$110,210,000 for fiscal year 2005;
9 (B) \$113,516,000 for fiscal year 2006;
10 (C) \$116,921,000 for fiscal year 2007; and
11 (D) \$120,429,000 for fiscal year 2008.

12 (3) MANUFACTURING EXTENSION PARTNERSHIP
13 PROGRAM DEFINED.—In this subsection, the term
14 “Hollings Manufacturing Extension Partnership
15 Program” means the program of Hollings Manufac-
16 turing Extension Partnership carried out by the Na-
17 tional Institute of Standards and Technology under
18 section 26 of the National Institute of Standards
19 and Technology Act (15 U.S.C. 278l), as provided in
20 part 292 of title 15, Code of Federal Regulations.

21 **SEC. 292. SENSE OF THE SENATE PROMOTING SCIENCE**
22 **AND TECHNOLOGY FUNDING FOR A STRONG-**
23 **ER ECONOMIC FUTURE.**

24 (a) FINDINGS.—The Senate makes the following
25 findings:

23 (3) The United States has reaped enormous
24 economic benefits from being the first country to
25 lead in the development of the Internet and the har-

1 nessing of biotechnology. These developments,
2 though, are far from being the last technological rev-
3 olutions to influence the economy of the United
4 States. Technological changes that promise major
5 economic effects are now being made in areas such
6 as—

7 (A) microelectronics, including the contin-
8 ued miniaturization of electronic devices and
9 the increasingly widespread diffusion of data
10 processing power;

11 (B) high-end supercomputing;

12 (C) telecommunications technologies;

(C) artificial materials, including materials in which the structure has been designed and built at the atomic or molecular level, the essence of nanotechnology;

17 (D) robotics; and

18 (E) new energy technologies, particular in-
19 cluding renewable energy technologies that are
20 as inexpensive as traditional fossil sources of
21 energy, technologies using hydrogen as an en-
22 ergy carrier, and technologies for energy effi-
23 ciencies.

24 (4) Because of the interconnected nature of
25 modern science and technology, advances in one field

1 depend on research results in other, seemingly unrelated fields. Biomedical science has been consistently
2 shown to rely on advances in fields such as chemistry,
3 materials science, mathematics, computer science,
4 and physics. Without basic advances in chemistry, computer science, and mathematics, the
5 sequencing of the human genome could not have
6 been successfully undertaken.

7 (5) In the 60 years since World War II, other
8 countries and regions of the world have built science
9 and technology capabilities that rival those of the
10 United States today, or that could rival such capabilities
11 of the United States in the future. The governments
12 of China, India, Japan, and the countries
13 of the European Union have all targeted significant
14 advancements in research and innovation as central
15 elements of the plans for future national and regional
16 economic prosperity.

17 (6) President George W. Bush has largely ignored
18 this challenge, proposing budgets that have under-funded or terminated key programs promoting
19 United States scientific and technological strength,
20 including cuts to—

21 (A) basic and applied research in the Department
22 of Defense;

(7) For other programs that have been proposed for small increases, such as the National Science Foundation, the amount of funding provided to individual grantees is well below the amounts that would lead to optimal scientific productivity and continued United States leadership in science and technology. In fiscal year 2004, the National Science Foundation's stringent peer review evaluation process judged approximately 12,000 out of some 40,000 proposals as "very good to excellent" or "excellent," yet, due to budget constraints, only 56 percent of such proposals were funded.

18 (8) The National Science Foundation and the
19 Office of Science in the Department of Energy are
20 among the greatest assets of the United States for
21 the advancement of science, mathematical, engineering,
22 and technology research and education. Al-
23 though the National Science Foundation accounts
24 for only 4 percent of Federal research and develop-
25 ment spending, it provides nearly 50 percent of all

1 Federal support for non-medical basic research con-
2 ducted in United States colleges and universities.
3 Similarly, the Office of Science of the Department of
4 Energy funds over half of all university research in
5 disciplines such as physics and materials science,
6 and has played a crucial role in national science and
7 technology initiatives such as advancing high-per-
8 formance computing and the sequencing of the
9 human genome. Both the National Science Founda-
10 tion and the Office of Science fund research in new
11 frontiers of scientific inquiry and contribute to cre-
12 ating a highly skilled, competitive workforce in
13 science and engineering.

14 (9) President Bush has also consistently pro-
15 posed terminating the Advanced Technology Pro-
16 gram at the Department of Commerce, which helps
17 stimulate companies to participate in high-risk, high-
18 payoff research and development and is perhaps one
19 of the most successful programs in directly stimu-
20 lating industrial innovation in the United States.
21 Projects supported by the Advanced Technology Pro-
22 gram span a broad range of key technology areas,
23 such as oil exploration, automobile manufacturing,
24 and new medical diagnostic and therapeutic tech-
25 nologies and investments made by the program ac-

1 celerate the development process for innovative tech-
2 nologies that promise significant commercial payoff
3 and widespread benefits.

4 (10) The continual cycle of basic research, ap-
5 plied research, and development gives rise to new
6 products and processes, new ideas and under-
7 standing, and new researchers and educators. Each
8 link in this chain depends on the others. Basic re-
9 search produces the fundamental understandings
10 that underpin applications and the development
11 process. The resulting technologies and innovations
12 create economic growth through new products and
13 job creation and stimulate new thinking and ad-
14 vances in scientific instrumentation, which in turn
15 stimulate new inquiries that lead to new funda-
16 mental research. All of this activity improves the
17 quality of life in the United States, and when ade-
18 quately supported, contributes to the continued lead-
19 ership of the United States in science and tech-
20 nology.

21 (11) A revitalized science and technology policy
22 focused on advancing all of the links of this chain,
23 from basic research through technology deployment,
24 is necessary if the United States is to maintain its
25 technological preeminence over the next decade and

1 beyond. Applications stemming from basic research
2 can take over 20 years to evolve into next generation
3 technologies. Inadequate funding of basic research
4 may not seem acute today, but 20 years from now,
5 it will be extremely difficult to correct an inability of
6 the United States to compete scientifically and tech-
7 nologically, which could be caused by inadequate
8 funding now.

9 (12) In order to ensure strength in these areas,
10 it is necessary for the United States Government to
11 ensure that scientists and technology experts in the
12 United States receive the best education possible.
13 After the Russians launched Sputnik, Congress
14 passed the National Defense Education Act of 1958
15 (Public Law 85-864), which declared “an edu-
16 cational emergency” and led to the more than dou-
17 bling of Federal expenditures for education. The
18 programs authorized under that Act helped the
19 United States to improve rapidly in the areas of
20 science and technology, and led to United States
21 dominance in the arms race and the global economy.

22 (13) The United States would be well served by
23 the enactment of a new National Defense Education
24 Act. Third in the world in 1975, America now ranks
25 15th in the development of new scientists and engi-

1 neers. Today, India and China annually produce 10
2 times as many new engineers as the United States.
3 Out of over 15,000,000 college students in the
4 United States, fewer than 400,000 individuals grad-
5 uate with a bachelor's degree in math, science, engi-
6 neering, or technology each year, and only 75,000
7 postgraduate students go on to obtain a master's de-
8 gree in math, science, engineering, or technology.

9 (b) SENSE OF THE SENATE.—It is the sense of the
10 Senate that—

11 (1) Congress and the President should direct
12 significant new investments in the National Science
13 Foundation, the Office of Science at the Department
14 of Energy, the National Institutes of Health, and
15 the National Institute of Standards and Technology
16 to increase federally funded research in basic science
17 and technology so that the United States can better
18 compete in the international economy; and

19 (2) Congress and the President should direct
20 significant new investments into the enhancement of
21 elementary and secondary education programs re-
22 lated to math, science, and technology and substan-
23 tially expand access to postsecondary education for
24 United States students seeking degrees in math,
25 science, and technology.

1 **TITLE III—FAIR TRADE AND**
2 **COMPETITIVENESS**
3 **Subtitle A—Trade Enforcement**
4 **Enhancement**

5 **SEC. 311. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
6 **ITIES.**

7 Section 310 of the Trade Act of 1974 (19 U.S.C.
8 2420) is amended to read as follows:

9 **“SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
10 **ITIES.**

11 “(a) IDENTIFICATION.—

12 “(1) IDENTIFICATION AND REPORT.—Within 30
13 days after the submission in each of calendar year
14 2005 through 2009 of the report required by section
15 181(b), the Trade Representative shall—

16 “(A) review United States trade expansion
17 priorities;

18 “(B) identify priority foreign country prac-
19 tices, the elimination of which is likely to have
20 the most significant potential to increase
21 United States exports, either directly or
22 through the establishment of a beneficial prece-
23 dent; and

24 “(C) submit to the Committee on Finance
25 of the Senate and the Committee on Ways and

1 Means of the House of Representatives and
2 publish in the Federal Register a report on the
3 priority foreign country practices identified.

4 “(2) FACTORS.—In identifying priority foreign
5 country practices under paragraph (1), the Trade
6 Representative shall take into account all relevant
7 factors, including—

8 “(A) the major barriers and trade dis-
9 torting practices described in the National
10 Trade Estimate Report required under section
11 181(b);

12 “(B) the trade agreements to which a for-
13 eign country is a party and its compliance with
14 those agreements;

15 “(C) the medium- and long-term implica-
16 tions of foreign government procurement plans;
17 and

18 “(D) the international competitive position
19 and export potential of United States products
20 and services.

21 “(3) CONTENTS OF REPORT.—The Trade Rep-
22 resentative may include in the report, if appro-
23 priate—

1 “(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

2 “(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

3 “(b) INITIATION OF CONSULTATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall seek consultations with each foreign country identified in the report as engaging in priority foreign country practices for the purpose of reaching a satisfactory resolution of such priority practices.

4 “(c) INITIATION OF INVESTIGATION.—If a satisfactory resolution of priority foreign country practices has not been reached under subsection (b) within 90 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section

1 302(b)(1) an investigation under this chapter with respect
2 to such priority foreign country practices.

3 “(d) AGREEMENTS FOR THE ELIMINATION OF BAR-
4 RIERS.—In the consultations with a foreign country that
5 the Trade Representative is required to request under sec-
6 tion 303(a) with respect to an investigation initiated by
7 reason of subsection (c), the Trade Representative shall
8 seek to negotiate an agreement that provides for the elimi-
9 nation of the practices that are the subject of the inves-
10 tigation as quickly as possible or, if elimination of the
11 practices is not feasible, an agreement that provides for
12 compensatory trade benefits.

13 “(e) REPORTS.—The Trade Representative shall in-
14 clude in the semiannual report required by section 309
15 a report on the status of any investigations initiated pur-
16 suant to subsection (c) and, where appropriate, the extent
17 to which such investigations have led to increased opportu-
18 nities for the export of products and services of the United
19 States.”.

20 **SEC. 312. CHIEF ENFORCEMENT NEGOTIATOR.**

21 (a) ESTABLISHMENT OF POSITION.—Section
22 141(b)(2) of the Trade Act of 1974 (19 U.S.C.
23 2171(b)(2)) is amended to read as follows:

24 “(2) There shall be in the Office 3 Deputy United
25 States Trade Representatives, 1 Chief Agricultural Nego-

1 tiator, and 1 Chief Enforcement Negotiator. The 3 Deputy
2 United States Trade Representatives and the 2 Chief Ne-
3 gotiators shall be appointed by the President, by and with
4 the advice and consent of the Senate. As an exercise of
5 the rulemaking power of the Senate, any nomination of
6 a Deputy United States Trade Representative, the Chief
7 Agricultural Negotiator, or the Chief Enforcement Nego-
8 tiator submitted to the Senate for its advice and consent,
9 and referred to a committee, shall be referred to the Com-
10 mittee on Finance. Each Deputy United States Trade
11 Representative, the Chief Agricultural Negotiator, and the
12 Chief Enforcement Negotiator shall hold office at the
13 pleasure of the President and shall have the rank of Am-
14 bassador.”.

15 (b) FUNCTIONS OF POSITION.—Section 141(c) of the
16 Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by
17 adding at the end the following new paragraph:

18 “(6) The principal function of the Chief Enforcement
19 Negotiator shall be to conduct negotiations to ensure com-
20 pliance with trade agreements relating to United States
21 manufactured goods and services. The Chief Enforcement
22 Negotiator shall recommend investigating and prosecuting
23 cases before the World Trade Organization and under
24 trade agreements to which the United States is a party.
25 The Chief Enforcement Negotiator shall recommend ad-

1 ministering United States trade laws relating to foreign
2 government barriers to United States goods and services.
3 The Chief Enforcement Negotiator shall perform such
4 other functions as the United States Trade Representative
5 may direct.”.

6 **SEC. 313. FOREIGN DEBT.**

7 (a) SHORT TITLE.—This section may be cited as the
8 “Foreign Debt Ceiling Act of 2005”.

9 (b) FOREIGN DEBT CEILING.—

10 (1) FINDINGS.—Congress makes the following
11 findings:

12 (A) The United States has become the
13 world’s largest net debtor Nation, having run
14 up massive trade deficits since the 1990s.

15 (B) At the end of 2002, the net United
16 States foreign debt stood at
17 \$2,553,000,000,000.

18 (C) The United States foreign debt posi-
19 tion worsened in 2003, when the United States
20 had a record trade deficit of \$489,000,000,000,
21 equivalent to 4.4 percent of the United States
22 GDP that year.

23 (D) The large and growing United States
24 foreign debt represents claims on United States
25 assets by foreign nationals, which will eventu-

1 ally have to be repaid. If unchecked, the foreign
2 debt could seriously undermine our children's
3 future standard of living.

4 (E) Moreover, the growing accumulation of
5 foreign claims on United States assets, includ-
6 ing over \$1,200,000,000,000 in United States
7 Treasury securities, makes the United States
8 economy vulnerable to the whims of foreign in-
9 vestors.

10 (F) Congress presently places a ceiling on
11 United States public debt, but does not place a
12 ceiling on United States foreign debt.

13 (G) Just as Congress recognized the im-
14 portance of placing a ceiling on the United
15 States public debt, it is appropriate that Con-
16 gress place a limit on the United States foreign
17 debt.

18 (2) ACTIONS TRIGGERED BY UNITED STATES
19 FOREIGN DEBT.—

20 (A) IN GENERAL.—Not later than the 15th
21 day of the second month after the date of en-
22 actment of this Act, and every 3 months there-
23 after, the United States Trade Representative
24 shall determine if—

1 (i) the net United States foreign debt
2 for the preceding 12-month period is more
3 than 25 percent of United States GDP for
4 the same period; or

5 (ii) the United States trade deficit for
6 the preceding 12-month period is more
7 than 5 percent of United States GDP for
8 the same period.

9 (B) ACTION BY USTR.—Whenever an af-
10 firmative determination is made under subpara-
11 graph (A) (i) or (ii), the United States Trade
12 Representative shall—

13 (i) within 15 days of the determina-
14 tion, convene an emergency meeting of the
15 Trade Policy Review Group to develop a
16 plan of action to reduce the United States
17 trade deficit; and

18 (ii) within 45 days of the determina-
19 tion, present to Congress a report detailing
20 the Trade Policy Review Group's trade def-
21 icit reduction plan.

22 (3) MEASUREMENT OF FOREIGN DEBT.—

23 (A) STATISTICAL SOURCES.—For purposes
24 of the calculations described in paragraph
25 (2)(A), the United States Trade Representative

1 shall rely on the most recent period for which
2 the following data, published by the Depart-
3 ment of Commerce, is available:

4 (i) In the case of United States for-
5 eign debt, the United States Trade Rep-
6 resentative shall use the net international
7 investment position of the United States,
8 with direct investment positions deter-
9 mined at market value, as compiled by the
10 Bureau of Economic Analysis.

11 (ii) In the case of the United States
12 trade deficit, the United States Trade Rep-
13 resentative shall use the goods and services
14 trade deficit data compiled by the United
15 States Census Bureau.

16 (iii) In the case of the United States
17 GDP, the United States Trade Represent-
18 ative shall use the nominal gross domestic
19 product data compiled by the Bureau of
20 Economic Analysis.

21 (B) ADJUSTMENT.—The United States
22 Trade Representative may adjust the data de-
23 scribed in subparagraph (A) to ensure that the
24 determination is made for comparable time pe-
25 riod.

1 **SEC. 314. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AUTHORIZATION OF APPROPRIATIONS FOR THE
3 OFFICE OF THE GENERAL COUNSEL AND THE OFFICE OF
4 MONITORING AND ENFORCEMENT.—There are authorized
5 to be appropriated to the Office of the United States
6 Trade Representative for the appointment of additional
7 staff in the Office of the General Counsel and the Office
8 of Monitoring and Enforcement—

9 (1) \$2,000,000 for fiscal year 2005; and
10 (2) \$2,000,000 for fiscal year 2006.

11 (b) RESPONSIBILITIES OF ADDITIONAL STAFF.—The
12 responsibilities of the additional staff appointed under
13 subsection (a) shall include—

14 (1) investigating, prosecuting, and defending
15 cases before the World Trade Organization and
16 under trade agreements to which the United States
17 is a party;

18 (2) administering United States trade laws, in-
19 cluding title III of the Trade Act of 1974 (19 U.S.C.
20 2411 et seq.) and other trade laws relating to for-
21 eign government barriers to United States goods and
22 services, including barriers involving intellectual
23 property rights, government procurement, and tele-
24 communications; and

25 (3) monitoring compliance with the Uruguay
26 Round Agreements (as defined in section 2 of the

1 Uruguay Round Agreements Act (19 U.S.C. 3501))
2 and other trade agreements, particularly by the Peo-
3 ple's Republic of China.

4 **Subtitle B—Exchange Rate Policy**
5 **and Currency Manipulation**

6 **SEC. 321. NEGOTIATIONS REGARDING CURRENCY VALU-**
7 **ATION.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

10 (1) The currency of the People's Republic of
11 China, known as the yuan or renminbi, is artificially
12 pegged at a level significantly below its market
13 value. Economists estimate the yuan to be under-
14 valued by between 15 percent and 40 percent or an
15 average of 27.5 percent.

16 (2) The undervaluation of the yuan provides the
17 People's Republic of China with a significant trade
18 advantage by making exports less expensive for for-
19 eign consumers and by making foreign products
20 more expensive for Chinese consumers. The effective
21 result is a significant subsidization of China's ex-
22 ports and a virtual tariff on foreign imports.

23 (3) The Government of the People's Republic of
24 China has intervened in the foreign exchange mar-
25 kets to hold the value of the yuan within an artificial

1 trading range. China's foreign reserves are estimated
2 to be over \$609,900,000,000 as of January 12,
3 2004, and have increased by over \$206,700,000,000
4 in the last 12 months.

5 (4) China's undervalued currency, China's trade
6 advantage from that undervaluation, and the Chi-
7 nese Government's intervention in the value of its
8 currency violates the spirit and letter of the world
9 trading system of which the People's Republic of
10 China is now a member.

11 (5) The Government of the People's Republic of
12 China has failed to promptly address concerns or to
13 provide a definitive timetable for resolution of these
14 concerns raised by the United States and the inter-
15 national community regarding the value of its cur-
16 rency.

17 (6) Article XXI of the GATT 1994 (as defined
18 in section 2(1)(B) of the Uruguay Round Agree-
19 ments Act (19 U.S.C. 3501(1)(B))) allows a member
20 of the World Trade Organization to take any action
21 which it considers necessary for the protection of its
22 essential security interests. Protecting the United
23 States manufacturing sector is essential to the inter-
24 ests of the United States.

1 (b) NEGOTIATIONS AND CERTIFICATION REGARDING
2 THE CURRENCY VALUATION POLICY OF THE PEOPLE'S
3 REPUBLIC OF CHINA.—

4 (1) IN GENERAL.—Notwithstanding the provi-
5 sions of title I of Public Law 106–286 (19 U.S.C.
6 2431 note), on and after the date that is 180 days
7 after the date of enactment of this Act, unless a cer-
8 tification described in paragraph (2) has been made
9 to Congress, in addition to any other duty, there
10 shall be imposed a rate of duty of 27.5 percent ad
11 valorem on any article that is the growth, product,
12 or manufacture of the People's Republic of China,
13 imported directly or indirectly into the United
14 States.

15 (2) CERTIFICATION.—The certification de-
16 scribed in this paragraph means a certification by
17 the President to Congress that the People's Republic
18 of China is no longer acquiring foreign exchange re-
19 serves to prevent the appreciation of the rate of ex-
20 change between its currency and the United States
21 dollar for purposes of gaining an unfair competitive
22 advantage in international trade. The certification
23 shall also include a determination that the currency
24 of the People's Republic of China has undergone a

1 substantial upward revaluation placing it at or near
2 its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

17 (4) NEGOTIATIONS.—Beginning on the date of
18 enactment of this Act, the Secretary of the Treas-
19 ery, in consultation with the United States Trade
20 Representative, shall begin negotiations with the
21 People's Republic of China to ensure that the Peo-
22 ple's Republic of China adopts a process that leads
23 to a substantial upward currency revaluation within
24 180 days after the date of enactment of this Act.
25 Because various Asian governments have also been

1 acquiring substantial foreign exchange reserves in an
2 effort to prevent appreciation of their currencies for
3 purposes of gaining an unfair competitive advantage
4 in international trade, and because the People's Re-
5 public of China has concerns about the value of
6 those currencies, the Secretary shall also seek to
7 convene a multilateral summit to discuss exchange
8 rates with representatives of various Asian govern-
9 ments and other interested parties, including rep-
10 resentatives of other G-7 nations.

11 **Subtitle C—Trade Adjustment
12 Assistance**

13 **CHAPTER 1—SERVICE WORKERS**

14 **SEC. 331. SHORT TITLE.**

15 This chapter may be cited as the “Trade Adjustment
16 Assistance Equity for Service Workers Act of 2005”.

17 **SEC. 332. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE
18 TO SERVICES SECTOR.**

19 (a) **ADJUSTMENT ASSISTANCE FOR WORKERS.**—Sec-
20 tion 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C.
21 2271(a)(1)(A)) is amended by striking “agricultural
22 firm” and inserting “agricultural firm, and workers in
23 a service sector firm or subdivision of a service sector firm
24 or public agency”.

1 (b) GROUP ELIGIBILITY REQUIREMENTS.—Section
2 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) in the matter preceding paragraph (1),
6 by striking “agricultural firm)” and inserting
7 “agricultural firm, and workers in a service sec-
8 tor firm or subdivision of a service sector firm
9 or public agency”;

10 (B) in paragraph (1), by inserting “or
11 public agency” after “of the firm”; and

12 (C) in paragraph (2)—

13 (i) in subparagraph (A)(ii), by strik-
14 ing “like or directly competitive with arti-
15 cles produced” and inserting “or services
16 like or directly competitive with articles
17 produced or services provided”; and

18 (ii) by striking subparagraph (B) and
19 inserting the following:

20 “(B)(i) there has been a shift, by such workers’
21 firm, subdivision, or public agency to a foreign coun-
22 try, of production of articles, or in provision of serv-
23 ices, like or directly competitive with articles which
24 are produced, or services which are provided, by
25 such firm, subdivision, or public agency; or

1 “(ii) such workers’ firm, subdivision, or public
2 agency has obtained or is likely to obtain such serv-
3 ices from a foreign country.”;

4 (2) in subsection (b)—

5 (A) in the matter preceding paragraph (1),
6 by striking “agricultural firm)” and inserting
7 “agricultural firm, and workers in a service sec-
8 tor firm or subdivision of a service sector firm
9 or public agency”;

10 (B) in paragraph (2), by inserting “or
11 service” after “related to the article”; and

12 (C) in paragraph (3)(A), by inserting “or
13 services” after “component parts”;

14 (3) in subsection (c)—

15 (A) in paragraph (3)—

16 (i) by inserting “or services” after
17 “value-added production processes”;

18 (ii) by striking “assembly or fin-
19 ishing” and inserting “assembly, finishing,
20 or testing”;

21 (iii) by inserting “or services” after
22 “for articles”; and

23 (iv) by inserting “(or subdivision)”
24 after “such other firm”; and

25 (B) in paragraph (4)—

1 (i) by striking “for articles” and in-
2 serting “, or services, used in the produc-
3 tion of articles or in the provision of serv-
4 ices” and

5 (ii) by inserting “(or subdivision)”
6 after “such other firm”; and

7 (4) by adding at the end the following new sub-
8 section:

9 "(d) BASIS FOR SECRETARY'S DETERMINATIONS.—

10 “(1) INCREASED IMPORTS.—For purposes of
11 subsection (a)(2)(A)(ii), the Secretary may deter-
12 mine that increased imports of like or directly com-
13 petitive articles or services exist if the workers’ firm
14 or subdivision or customers of the workers’ firm or
15 subdivision accounting for not less than 20 percent
16 of the sales of the workers’ firm or subdivision cer-
17 tify to the Secretary that they are obtaining such ar-
18 ticles or services from a foreign country.

19 “(2) OBTAINING SERVICES ABROAD.—For pur-
20 poses of subsection (a)(2)(B)(ii), the Secretary may
21 determine that the workers’ firm, subdivision, or
22 public agency has obtained or is likely to obtain like
23 or directly competitive services from a firm in a for-
24 eign country based on a certification thereof from
25 the workers’ firm, subdivision, or public agency.

1 “(3) AUTHORITY OF THE SECRETARY.—The
2 Secretary may obtain the certifications under para-
3 graphs (1) and (2) through questionnaires or in
4 such other manner as the Secretary determines is
5 appropriate.”.

6 (c) TRAINING.—Section 236(a)(2)(A) of the Trade
7 Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by
8 striking “\$220,000,000” and inserting “\$440,000,000”.

9 (d) DEFINITIONS.—Section 247 of the Trade Act of
10 1974 (19 U.S.C. 2319) is amended—

11 (1) in paragraph (1)—

12 (A) by inserting “or public agency” after
13 “of a firm”; and

14 (B) by inserting “or public agency” after
15 “or subdivision”;

16 (2) in paragraph (2)(B), by inserting “or public
17 agency” after “the firm”;

18 (3) by redesignating paragraphs (8) through
19 (17) as paragraphs (9) through (18), respectively;
20 and

21 (4) by inserting after paragraph (6) the fol-
22 lowing:

23 “(7) The term ‘public agency’ means a depart-
24 ment or agency of a State or local government or of
25 the Federal Government.

1 “(8) The term ‘service sector firm’ means an
2 entity engaged in the business of providing serv-
3 ices.”.

4 (e) TECHNICAL AMENDMENT.—Section 245(a) of the
5 Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by
6 striking “, other than subchapter D”.

7 **SEC. 333. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS**

8 **AND INDUSTRIES.**

9 (a) FIRMS.—

10 (1) ASSISTANCE.—Section 251 of the Trade
11 Act of 1974 (19 U.S.C. 2341) is amended—

12 (A) in subsection (a), by inserting “or
13 service sector firm” after “(including any agri-
14 cultural firm”;

15 (B) in subsection (c)(1)—

16 (i) in the matter preceding subpara-
17 graph (A), by inserting “or service sector
18 firm” after “(including any agricultural
19 firm”;

20 (ii) in subparagraph (B)(ii), by insert-
21 ing “or service” after “of an article”; and

22 (iii) in subparagraph (C), by striking
23 “articles like or directly competitive with
24 articles which are produced” and inserting
25 “articles or services like or directly com-

1 petitive with articles or services which are
2 produced or provided”; and
3 (C) by adding at the end the following:

4 “(e) BASIS FOR SECRETARY DETERMINATION.—

5 “(1) INCREASED IMPORTS.—For purposes of
6 subsection (c)(1)(C), the Secretary may determine
7 that increases of imports of like or directly competi-
8 tive articles or services exist if customers accounting
9 for not less than 20 percent of the sales of the work-
10 ers’ firm certify to the Secretary that they are ob-
11 taining such articles or services from a foreign coun-
12 try.

13 “(2) AUTHORITY OF THE SECRETARY.—The
14 Secretary may obtain the certifications under para-
15 graph (1) through questionnaires or in such other
16 manner as the Secretary determines is appropriate.
17 The Secretary may exercise the authority under sec-
18 tion 249 in carrying out this subsection.”.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—
20 Section 256(b) of the Trade Act of 1974 (19 U.S.C.
21 2346(b)) is amended by striking “\$16,000,000” and
22 inserting “\$32,000,000”.

23 (3) DEFINITIONS.—Section 261 of the Trade
24 Act of 1974 (19 U.S.C. 2351) is amended to read
25 as follows:

1 **“SEC. 261. DEFINITIONS.**

2 “For purposes of this chapter:

3 “(1) FIRM.—The term ‘firm’ includes an indi-
4 vidual proprietorship, partnership, joint venture, as-
5 sociation, corporation (including a development cor-
6 poration), business trust, cooperative, trustee in
7 bankruptcy, and receiver under decree of any court.
8 A firm, together with any predecessor or successor
9 firm, or any affiliated firm controlled or substan-
10 tially beneficially owned by substantially the same
11 persons, may be considered a single firm where nec-
12 essary to prevent unjustifiable benefits.13 “(2) SERVICE SECTOR FIRM.—The term ‘service
14 sector firm’ means a firm engaged in the business
15 of providing services.”.16 (b) INDUSTRIES.—Section 265(a) of the Trade Act
17 of 1974 (19 U.S.C. 2355(a)) is amended by inserting “or
18 service” after “new product”.19 **SEC. 334. MONITORING AND REPORTING.**20 Section 282 of the Trade Act of 1974 (19 U.S.C.
21 2393) is amended—

22 (1) in the first sentence—

23 (A) by striking “The Secretary” and in-
24 serting “(a) MONITORING PROGRAMS.—The
25 Secretary”;

1 (B) by inserting “and services” after “im-
2 ports of articles”;

3 (C) by inserting “and domestic provision of
4 services” after “domestic production”;

5 (D) by inserting “or providing services”
6 after “producing articles”; and

7 (E) by inserting “, or provision of serv-
8 ices,” after “changes in production”; and

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

10 "(b) COLLECTION OF DATA AND REPORTS ON SERV-
11 ICES SECTOR.—

12 “(1) SECRETARY OF LABOR.—Not later than 3
13 months after the date of the enactment of the Trade
14 Adjustment Assistance Equity for Service Workers
15 Act of 2005, the Secretary of Labor shall implement
16 a system to collect data on adversely affected service
17 workers that includes the number of workers by
18 State, industry, and cause of dislocation of each
19 worker.

20 “(2) SECRETARY OF COMMERCE.—Not later
21 than 6 months after such date of enactment, the
22 Secretary of Commerce shall, in consultation with
23 the Secretary of Labor, conduct a study and report
24 to the Congress on ways to improve the timeliness
25 and coverage of data on trade in services, including

1 methods to identify increased imports due to the re-
2 location of United States firms to foreign countries,
3 and increased imports due to United States firms
4 obtaining services from firms in foreign countries.”.

5 **SEC. 335. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.**

6 (a) IN GENERAL.—Section 246(a)(3) of the Trade
7 Act of 1974 (19 U.S.C. 2318(a)(3)) is amended to read
8 as follows:

9 “(3) ELIGIBILITY.—A worker in the group that
10 the Secretary has certified as eligible for the alter-
11 native trade adjustment assistance program may
12 elect to receive benefits under the alternative trade
13 adjustment assistance program if the worker—

14 “(A) is covered by a certification under
15 subchapter A of this chapter;

16 “(B) obtains reemployment not more than
17 26 weeks after the date of separation from the
18 adversely affected employment;

19 “(C) is at least 40 years of age;

20 “(D) earns not more than \$50,000 a year
21 in wages from reemployment;

22 “(E) is employed on a full-time basis as
23 defined by State law in the State in which the
24 worker is employed; and

1 “(F) does not return to the employment
2 from which the worker was separated.”.

3 (b) CONFORMING AMENDMENTS.—Section 246 of the
4 Trade Act of 1974 (19 U.S.C. 2318) is amended—

5 (1) in subsection (a)(2)(A), by striking “para-
6 graph (3)(B)” and inserting “paragraph (3)”;

7 (2) in subsection (a)(2)(B), by striking “para-
8 graph (3)(B)” and inserting “paragraph (3)”; and

9 (3) in subsection (b)(2), by striking “subsection
10 (a)(3)(B)” and inserting “subsection (a)(3)”.

11 **SEC. 336. EFFECTIVE DATE.**

12 (a) IN GENERAL.—Except as provided in subsection
13 (b), the amendments made by this chapter shall take effect
14 on the date of enactment of this Act.

15 (b) SPECIAL RULE FOR CERTAIN SERVICE WORK-
16 ERS.—A group of workers in a service sector firm, or sub-
17 division of a service sector firm, or public agency (as de-
18 fined in section 247 (7) and (8) of the Trade Act of 1974,
19 as added by section 332(d) of this Act) who—

20 (1) would have been certified eligible to apply
21 for adjustment assistance under chapter 2 of title II
22 of the Trade Act of 1974 if the amendments made
23 by this Act had been in effect on November 4, 2002;
24 and

CHAPTER 2—TRADE ADJUSTMENT

ASSISTANCE FOR COMMUNITIES

12 SEC. 341. SHORT TITLE.

13 This chapter may be cited as the “Trade Adjustment
14 Assistance for Communities Act of 2005”.

15 SEC. 342. PURPOSE.

16 The purpose of this chapter is to assist communities
17 negatively impacted by trade with economic adjustment
18 through the integration of political and economic organiza-
19 tions, the coordination of Federal, State, and local re-
20 sources, the creation of community-based development
21 strategies, and the provision of economic transition assist-
22 ance.

1 **SEC. 343. TRADE ADJUSTMENT ASSISTANCE FOR COMMU-**2 **NITIES.**3 (a) REPEAL OF TERMINATED PROVISIONS.—Chapter
4 4 of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is
5 repealed.6 (b) TRADE ADJUSTMENT ASSISTANCE FOR COMMU-
7 NITIES.—Title II of the Trade Act of 1974 (19 U.S.C.
8 2251 et seq.) is amended by inserting after chapter 3 the
9 following new chapter:10 **“CHAPTER 4—TRADE ADJUSTMENT
11 ASSISTANCE FOR COMMUNITIES**12 **“SEC. 271. DEFINITIONS.**

13 “In this chapter:

14 “(1) AFFECTED DOMESTIC PRODUCER.—The
15 term ‘affected domestic producer’ means any manu-
16 facturer, producer, service provider, farmer, rancher,
17 fisherman or worker representative (including asso-
18 ciations of such persons) that was affected by a find-
19 ing under the Antidumping Act, 1921 (title II of the
20 Act of May 27, 1921; 42 Stat. 11, chapter 14), or
21 by an antidumping or countervailing duty order
22 issued under title VII of the Tariff Act of 1930 (19
23 U.S.C. 1671 et seq.).24 “(2) AGRICULTURAL COMMODITY PRODUCER.—
25 The term ‘agricultural commodity producer’ has the
26 same meaning as the term ‘person’ as prescribed by

1 regulations promulgated under section 1001(e) of
2 the Food Security Act of 1985 (7 U.S.C. 1308(e)).

3 “(3) COMMUNITY.—The term ‘community’
4 means a city, county, or other political subdivision of
5 a State or a consortium of political subdivisions of
6 a State that the Secretary certifies as being nega-
7 tively impacted by trade.

8 “(4) COMMUNITY NEGATIVELY IMPACTED BY
9 TRADE.—A community negatively impacted by trade
10 means a community with respect to which a deter-
11 mination has been made under section 273.

12 “(5) ELIGIBLE COMMUNITY.—The term ‘eligible
13 community’ means a community certified under sec-
14 tion 273 for assistance under this chapter.

15 “(6) FISHERMAN.—

16 “(A) IN GENERAL.—The term ‘fisherman’
17 means any person who—

18 “(i) is engaged in commercial fishing;
19 or

20 “(ii) is a United States fish processor.

21 “(B) COMMERCIAL FISHING, FISH, FISH-
22 ERY, FISHING, FISHING VESSEL, PERSON, AND
23 UNITED STATES FISH PROCESSOR.—The terms
24 ‘commercial fishing’, ‘fish’, ‘fishery’, ‘fishing’,
25 ‘fishing vessel’, ‘person’, and ‘United States fish

1 processor' have the same meanings as given
2 such terms in section 3 of the Magnuson-St-
3 vens Fishery Conservation and Management
4 Act (16 U.S.C. 1802).

5 “(7) JOB LOSS.—The term ‘job loss’ means the
6 total separation or partial separation of an indi-
7 vidual, as those terms are defined in section 247.

8 “(8) SECRETARY.—Except as otherwise pro-
9 vided, the term ‘Secretary’ means the Secretary of
10 Commerce.

11 **“SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE
12 PROGRAM.**

13 “(a) ESTABLISHMENT.—Not later than 6 months
14 after the date of enactment of the Trade Adjustment As-
15 sistance for Communities Act of 2005, the Secretary shall
16 establish a Trade Adjustment Assistance for Communities
17 Program at the Department of Commerce.

18 “(b) PERSONNEL.—The Secretary shall designate
19 such staff as may be necessary to carry out the respon-
20 sibilities described in this chapter.

21 “(c) COORDINATION OF FEDERAL RESPONSE.—The
22 Secretary shall—

23 “(1) provide leadership, support, and coordina-
24 tion for a comprehensive management program to
25 address economic dislocation in eligible communities;

1 “(2) coordinate the Federal response to an eli-
2 gible community—

3 “(A) by identifying all Federal, State, and
4 local resources that are available to assist the
5 eligible community in recovering from economic
6 distress;

7 “(B) by ensuring that all Federal agencies
8 offering assistance to an eligible community do
9 so in a targeted, integrated manner that en-
10 sures that an eligible community has access to
11 all available Federal assistance;

12 “(C) by assuring timely consultation and
13 cooperation between Federal, State, and re-
14 gional officials concerning economic adjustment
15 for an eligible community; and

16 “(D) by identifying and strengthening ex-
17 isting agency mechanisms designed to assist eli-
18 gible communities in their efforts to achieve
19 economic adjustment and workforce reemploy-
20 ment;

21 “(3) provide comprehensive technical assistance
22 to any eligible community in the efforts of that com-
23 munity to—

1 “(A) identify serious economic problems in
2 the community that are the result of negative
3 impacts from trade;

4 “(B) integrate the major groups and orga-
5 nizations significantly affected by the economic
6 adjustment;

7 “(C) access Federal, State, and local re-
8 sources designed to assist in economic develop-
9 ment and trade adjustment assistance;

10 “(D) diversify and strengthen the commu-
11 nity economy; and

12 “(E) develop a community-based strategic
13 plan to address economic development and
14 workforce dislocation, including unemployment
15 among agricultural commodity producers, and
16 fishermen;

17 “(4) establish specific criteria for submission
18 and evaluation of a strategic plan submitted under
19 section 274(d);

20 “(5) establish specific criteria for submitting
21 and evaluating applications for grants under section
22 275;

23 “(6) administer the grant programs established
24 under sections 274 and 275; and

1 “(7) establish an interagency Trade Adjustment
2 Assistance for Communities Working Group, con-
3 sisting of the representatives of any Federal depart-
4 ment or agency with responsibility for economic ad-
5 justment assistance, including the Department of
6 Agriculture, the Department of Education, the De-
7 partment of Labor, the Department of Housing and
8 Urban Development, the Department of Health and
9 Human Services, the Small Business Administra-
10 tion, the Department of the Treasury, the Depart-
11 ment of Commerce, and any other Federal, State, or
12 regional department or agency the Secretary deter-
13 mines necessary or appropriate.

14 **“SEC. 273. CERTIFICATION AND NOTIFICATION.**

15 “(a) CERTIFICATION.—Not later than 45 days after
16 an event described in subsection (c)(1), the Secretary shall
17 determine if a community described in subsection (b)(1)
18 is negatively impacted by trade, and if a positive deter-
19 mination is made, shall certify the community for assist-
20 ance under this chapter.

21 “(b) DETERMINATION THAT COMMUNITY IS ELIGI-
22 BLE.—

23 “(1) COMMUNITY DESCRIBED.—A community
24 described in this paragraph means a community
25 with respect to which on or after October 1, 2005—

1 “(A) the Secretary of Labor certifies a
2 group of workers (or their authorized represent-
3 ative) in the community as eligible for assist-
4 ance pursuant to section 223;

5 “(B) the Secretary of Commerce certifies a
6 firm located in the community as eligible for
7 adjustment assistance under section 251;

8 “(C) the Secretary of Agriculture certifies
9 a group of agricultural commodity producers
10 (or their authorized representative) in the com-
11 munity as eligible for adjustment assistance
12 under section 293;

13 “(D) an affected domestic producer is lo-
14 cated in the community; or

15 “(E) the Secretary determines that a sig-
16 nificant number of fishermen in the community
17 is negatively impacted by trade.

18 “(2) NEGATIVELY IMPACTED BY TRADE.—The
19 Secretary shall determine that a community is nega-
20 tively impacted by trade, after taking into consider-
21 ation—

22 “(A) the number of jobs affected compared
23 to the size of the workforce in the community;

1 “(B) the severity of the rates of unemployment in the community and the duration of the
2 unemployment in the community;

3
4 “(C) the income levels and the extent of underemployment in the community;

5
6 “(D) the outmigration of population from the community and the extent to which the out-
7 migration is causing economic injury in the
8 community; and

9
10 “(E) the unique problems and needs of the
11 community.

12 “(c) EVENTS DESCRIBED.—

13 “(1) IN GENERAL.—An event described in this
14 paragraph means one of the following:

15 “(A) A notification described in paragraph
16 (2).

17 “(B) A certification of a firm under section
18 251.

19 “(C) A finding under the Antidumping
20 Act, 1921, or an antidumping or countervailing
21 duty order issued under title VII of the Tariff
22 Act of 1930.

23 “(D) A determination by the Secretary
24 that a significant number of fishermen in a

1 community have been negatively impacted by
2 trade.

3 “(2) NOTIFICATION.—The Secretary of Labor,
4 immediately upon making a determination that a
5 group of workers is eligible for trade adjustment as-
6 sistance under section 223, (or the Secretary of Ag-
7 riculture, immediately upon making a determination
8 that a group of agricultural commodity producers is
9 eligible for adjustment assistance under section 293,
10 as the case may be) shall notify the Secretary of the
11 determination.

12 “(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—
13 Immediately upon certification by the Secretary that a
14 community is eligible for assistance under subsection (b),
15 the Secretary shall notify the community—

16 “(1) of the determination under subsection (b);
17 “(2) of the provisions of this chapter;
18 “(3) how to access the clearinghouse established
19 by the Department of Commerce regarding available
20 economic assistance;

21 “(4) how to obtain technical assistance provided
22 under section 272(c)(3); and

23 “(5) how to obtain grants, tax credits, low in-
24 come loans, and other appropriate economic assist-
25 ance.

1 **“SEC. 274. STRATEGIC PLANS.**

2 “(a) IN GENERAL.—An eligible community may de-
3 velop a strategic plan for community economic adjustment
4 and diversification.

5 “(b) REQUIREMENTS FOR STRATEGIC PLAN.—A
6 strategic plan shall contain, at a minimum, the following:

7 “(1) A description and justification of the ca-
8 pacity for economic adjustment, including the meth-
9 od of financing to be used.

10 “(2) A description of the commitment of the
11 community to the strategic plan over the long term
12 and the participation and input of groups affected
13 by economic dislocation.

14 “(3) A description of the projects to be under-
15 taken by the eligible community.

16 “(4) A description of how the plan and the
17 projects to be undertaken by the eligible community
18 will lead to job creation and job retention in the
19 community.

20 “(5) A description of how the plan will achieve
21 economic adjustment and diversification.

22 “(6) A description of how the plan and the
23 projects will contribute to establishing or maintain-
24 ing a level of public services necessary to attract and
25 retain economic investment.

1 “(7) A description and justification for the cost
2 and timing of proposed basic and advanced infra-
3 structure improvements in the eligible community.

4 “(8) A description of how the plan will address
5 the occupational and workforce conditions in the eli-
6 gible community.

7 “(9) A description of the educational programs
8 available for workforce training and future employ-
9 ment needs.

10 “(10) A description of how the plan will adapt
11 to changing markets and business cycles.

12 “(11) A description and justification for the
13 cost and timing of the total funds required by the
14 community for economic assistance.

15 “(12) A graduation strategy through which the
16 eligible community demonstrates that the community
17 will terminate the need for Federal assistance.

18 “(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The
19 Secretary, upon receipt of an application from an eligible
20 community, may award a grant to that community to be
21 used to develop the strategic plan.

22 “(d) SUBMISSION OF PLAN.—A strategic plan devel-
23 oped under subsection (a) shall be submitted to the Sec-
24 retary for evaluation and approval.

1 **“SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.**

2 “(a) IN GENERAL.—The Secretary, upon approval of
3 a strategic plan from an eligible community, may award
4 a grant to that community to carry out any project or
5 program that is certified by the Secretary to be included
6 in the strategic plan approved under section 274(d), or
7 consistent with that plan.

8 “(b) ADDITIONAL GRANTS.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 in order to assist eligible communities to obtain
11 funds under Federal grant programs, other than the
12 grants provided for in section 274(c) or subsection
13 (a), the Secretary may, on the application of an eli-
14 gible community, make a supplemental grant to the
15 community if—

16 “(A) the purpose of the grant program
17 from which the grant is made is to provide
18 technical or other assistance for planning, con-
19 structing, or equipping public works facilities or
20 to provide assistance for public service projects;
21 and

22 “(B) the grant is one for which the com-
23 munity is eligible except for the community’s in-
24 ability to meet the non-Federal share require-
25 ments of the grant program.

1 “(2) USE AS NON-FEDERAL SHARE.—A supple-
2 mental grant made under this subsection may be
3 used to provide the non-Federal share of a project,
4 unless the total Federal contribution to the project
5 for which the grant is being made exceeds 80 per-
6 cent and that excess is not permitted by law.

7 “(c) RURAL COMMUNITY PREFERENCE.—The Sec-
8 retary shall develop guidelines to ensure that rural com-
9 munities receive preference in the allocation of resources.

10 **“SEC. 276. GENERAL PROVISIONS.**

11 “(a) REGULATIONS.—The Secretary shall prescribe
12 such regulations as are necessary to carry out the provi-
13 sions of this chapter. Before implementing any regulation
14 or guideline proposed by the Secretary with respect to this
15 chapter, the Secretary shall submit the regulation or
16 guideline to the Committee on Finance of the Senate and
17 the Committee on Ways and Means of the House of Rep-
18 resentatives for approval.

19 “(b) SUPPLEMENT NOT SUPPLANT.—Funds appro-
20 priated under this chapter shall be used to supplement and
21 not supplant other Federal, State, and local public funds
22 expended to provide economic development assistance for
23 communities.

24 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary

1 \$100,000,000 for each of fiscal years 2005 through 2008,
2 to carry out this chapter. Amounts appropriated pursuant
3 to this subsection shall remain available until expended.”.

4 **SEC. 344. CONFORMING AMENDMENTS.**

5 (a) TERMINATION.—Section 285(b) of the Trade Act
6 of 1974 (19 U.S.C. 2271 note) is amended by adding at
7 the end the following new paragraph:

8 “(3) ASSISTANCE FOR COMMUNITIES.—Tech-
9 nical assistance and other payments may not be pro-
10 vided under chapter 4 after September 30, 2008.”.

11 (b) TABLE OF CONTENTS.—The table of contents for
12 title II of the Trade Act of 1974 is amended by striking
13 the items relating to chapter 4 of title II and inserting
14 after the items relating to chapter 3 the following new
15 items:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“Sec. 271. Definitions.
“Sec. 272. Community Trade Adjustment Assistance Program.
“Sec. 273. Certification and notification.
“Sec. 274. Strategic plans.
“Sec. 275. Grants for economic development.
“Sec. 276. General provisions.”.

16 (c) JUDICIAL REVIEW.—Section 284(a) of the Trade
17 Act of 1974 (19 U.S.C. 2395(a)) is amended by striking
18 “section 271” and inserting “section 273”.

19 **SEC. 345. EFFECTIVE DATE.**

20 The amendments made by this chapter shall take ef-
21 feet on the date of enactment of this Act.

1 **CHAPTER 3—OFFICE OF TRADE**
2 **ADJUSTMENT ASSISTANCE**

3 **SEC. 351. SHORT TITLE.**

4 This chapter may be cited as the “Trade Adjustment
5 Assistance for Firms Reorganization Act”.

6 **SEC. 352. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

7 (a) IN GENERAL.—Chapter 3 of title II of the Trade
8 Act of 1974 (19 U.S.C. 2341 et seq.) is amended by in-
9 serting after section 255 the following new section:

10 **“SEC. 255A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.**

11 “(a) ESTABLISHMENT.—Not later than 90 days after
12 the date of enactment of the Trade Adjustment Assistance
13 for Firms Reorganization Act, there shall be established
14 in the International Trade Administration of the Depart-
15 ment of Commerce an Office of Trade Adjustment Assist-
16 ance.

17 “(b) PERSONNEL.—The Office shall be headed by a
18 Director, and shall have such staff as may be necessary
19 to carry out the responsibilities of the Secretary of Com-
20 merce described in this chapter.

21 “(c) FUNCTIONS.—The Office shall assist the Sec-
22 retary of Commerce in carrying out the Secretary’s re-
23 sponsibilities under this chapter.”.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the Trade Act of 1974 is amended by inserting

1 after the item relating to section 255, the following new
2 item:

“See. 255A. Office of Trade Adjustment Assistance.”.

3 **SEC. 353. EFFECTIVE DATE.**

4 The amendments made by this chapter shall take ef-
5 fect on the date of enactment of this Act.

6 **CHAPTER 4—IMPROVEMENT OF CREDIT**
7 **FOR HEALTH INSURANCE COSTS OF**
8 **ELIGIBLE INDIVIDUALS**

9 **SEC. 361. IMPROVEMENT OF THE AFFORDABILITY OF THE**
10 **CREDIT.**

11 (a) **IMPROVEMENT OF AFFORDABILITY.—**

12 (1) **IN GENERAL.—**Section 35(a) of the Inter-
13 nal Revenue Code of 1986 (relating to credit for
14 health insurance costs of eligible individuals) is
15 amended to read as follows:

16 “(a) **AMOUNT OF CREDIT.—**

17 “(1) **IN GENERAL.—**In the case of an indi-
18 vidual, there shall be allowed as a credit against the
19 tax imposed by subtitle A an amount equal to the
20 excess of—

21 “(A) the amount paid by the taxpayer for
22 coverage of the taxpayer and qualifying family
23 members under qualified health insurance for
24 eligible coverage months beginning in the tax-
25 able year, over

1 “(B) the amount described in paragraph
2 (2).

3 “(2) AMOUNT DESCRIBED.—For purposes of
4 paragraph (1), the amount described in this para-
5 graph is the lesser of—

6 “(A) the amount equal to 20 percent of the
7 amount determined under paragraph (1)(A) for
8 the taxable year, or

9 “(B) the amount equal to 5 percent of the
10 taxpayer’s certified income (as determined
11 under subsection (g)(9)) for such taxable
12 year.”.

13 (2) CONFORMING AMENDMENT.—Section
14 7527(b) of such Code (relating to advance payment
15 of credit for health insurance costs of eligible indi-
16 viduals) is amended by striking “65 percent of the
17 amount” and all that follows through the period at
18 the end and inserting “the amount determined
19 under section 35(a)(1) for such taxable year.”.

20 (b) DETERMINATION OF CERTIFIED INCOME.—Sec-
21 tion 35(g) of such Code (relating to special rules), is
22 amended—

23 (1) by redesignating paragraph (9) as para-
24 graph (10), and

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

3 “(9) CERTIFIED INCOME.—

4 “(A) IN GENERAL.—The Secretary shall
5 enter into agreements with States to determine
6 an individual’s certified income for purposes of
7 subsection (a)(2)(B) for any taxable year.

8 “(B) REQUIREMENTS.—An agreement
9 under subparagraph (A) with a State shall—

1 purposes of subsection (a)(2)(B) for the
2 taxable year unless the State determines
3 upon completion of the processing of the
4 application that the certification is erro-
5 neous.

6 “(C) NOTIFICATION OF CHANGE IN IN-
7 COME.—An individual issued a certification of
8 income shall notify the State of any substantial
9 change in income that applies for at least 60
10 days and the taxpayer’s certified income for the
11 taxable year shall be adjusted accordingly. An
12 individual who fails to so notify the State shall
13 remit the difference (if any) between the
14 amount described in subsection (a)(2) for the
15 taxable year and such amount which would
16 have been described under such subsection for
17 such taxable year if the notification had been
18 made as an addition to tax, plus interest at the
19 underpayment rate established under section
20 6621.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section apply to taxable years beginning after Decem-
23 ber 31, 2004.

24 **SEC. 362. OFFERING OF FEDERAL Fallback COVERAGE.**

25 (a) PROVISION OF Fallback COVERAGE.—

ommendations regarding the establishment of separate risk pools for individuals covered under FEHBP and eligible individuals covered under health benefit plans offered under paragraph (1) as may be appropriate to protect the interests of individuals covered under FEHBP and alleviate any adverse impact on FEHBP that may result from the offering of such health benefit plans.

13 (b) CONFORMING AMENDMENTS.—

17 “(K) Coverage under a health benefits plan
18 offered under section 362(a)(1) of the Fair
19 Wage, Competition, and Investment Act of
20 2005.”.

1 “(xi) Coverage under a health benefits
2 plan offered under section 362(a)(1) of the
3 Fair Wage, Competition, and Investment
4 Act of 2005.”.

5 **SEC. 363. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF**
6 **CERTAIN INDIVIDUALS ENTITLED TO MEDI-**
7 **CARE.**

8 (a) IN GENERAL.—Subsection (b) of section 35 of the
9 Internal Revenue Code of 1986 (defining eligible coverage
10 month) is amended by adding at the end the following:

11 “(3) SPECIAL RULE FOR SPOUSE OF INDIVI-
12 VIDUAL ENTITLED TO MEDICARE.—Any month
13 which would be an eligible coverage month with re-
14 spect to a taxpayer (determined without regard to
15 subsection (f)(2)(A)) shall be an eligible coverage
16 month for any spouse of such taxpayer.”.

17 (b) CONFORMING AMENDMENT.—Section
18 173(f)(5)(A)(i) of the Workforce Investment Act of 1998
19 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting “(in-
20 cluding with respect to any month for which the eligible
21 individual would have been treated as such but for the ap-
22 plication of paragraph (7)(B)(i))” before the comma.

1 **Subtitle D—Sense of the Senate on** 2 **Free Trade Agreements**

3 SEC. 371. SENSE OF THE SENATE ON FREE TRADE AGREE-
4 MENTS.

5 (a) FINDINGS.—The Senate makes the following
6 findings:

15 (3) Only 1 of those 20 countries is among the
16 top 30 trading partners of the United States.

7 (6) The President and individuals in the Execu-
8 tive Branch of the United States have also argued
9 that trade expands markets for United States goods
10 and services, creates higher-paying jobs in the
11 United States, and invigorates local communities
12 and their economies.

18 (b) SENSE OF THE SENATE.—It is the sense of the
19 Senate that—

20 (1) the trade policy of the United States should
21 focus on creating more jobs in the United States
22 and a higher standard of living for people in the
23 United States; and

24 (2) to best accomplish these goals, the United
25 States should focus its efforts on trade negotiations

1 occurring at the WTO and, when negotiating trade
2 agreements on a bilateral basis, focus on agreements
3 with countries that have large economies that will
4 provide meaningful export opportunities for United
5 States farmers, workers, and businesses.

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