

**Calendar No. 972**110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3038****[Report No. 110-467]**

To amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

---

**IN THE SENATE OF THE UNITED STATES**

MAY 20, 2008

Mr. GRASSLEY (for himself, Mr. COCHRAN, Mr. ROCKEFELLER, Ms. COLLINS, Mrs. LINCOLN, Mr. SUNUNU, Mr. DORGAN, Mrs. HUTCHISON, Mr. HATCH, Mr. COLEMAN, Mr. BROWN, Ms. LANDRIEU, Mr. BAYH, Mr. JOHNSON, Mr. VOINOVICH, Mr. PRYOR, Mr. LEVIN, and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Finance

SEPTEMBER 16, 2008

Reported by Mr. BAUCUS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, 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 “Improved Adoption Incentives and Relative Guardianship  
 6 Support Act of 2008”.

7 (b) **TABLE OF CONTENTS.**—Table of contents for this  
 8 Act is as follows:

Sec. 1. Short title; table of contents:

**TITLE I—EXTENSION AND IMPROVEMENT OF ADOPTION  
 INCENTIVES**

Sec. 101. Extension of adoption incentives program.

Sec. 102. Promotion of adoption of children with special needs.

**TITLE II—SUPPORT FOR RELATIVE GUARDIANSHIPS**

Sec. 201. Relative guardianship assistance payments for children.

**TITLE III—MISCELLANEOUS**

Sec. 301. Authority for comparisons and disclosures of information in the Fed-  
 eral Parent Locator Service for child welfare, foster care, and  
 adoption assistance program purposes.

9 **TITLE I—EXTENSION AND IM-**  
 10 **PROVEMENT OF ADOPTION**  
 11 **INCENTIVES**

12 **SEC. 101. EXTENSION OF ADOPTION INCENTIVES PRO-**  
 13 **GRAM.**

14 (a) **5-YEAR EXTENSION.**—Section 473A of the Social  
 15 Security Act (42 U.S.C. 673b) is amended—

16 (1) in subsection (b)(4), by striking “in the  
 17 case of fiscal years 2001 through 2007,”;

1           (2) in subsection (b)(5), by striking “1998  
2 through 2007” and inserting “2008 through 2012”;

3           (3) in subsection (c)(2), by striking “each of  
4 fiscal years 2002 through 2007” and inserting “a  
5 fiscal year”; and

6           (4) in each of subsections (h)(1)(D) and (h)(2),  
7 by striking “2008” and inserting “2013”.

8           (b) ~~ADDITIONAL INCENTIVE PAYMENT FOR EXCEED-~~  
9 ~~ING THE HIGHEST EVER FOSTER CHILD ADOPTION~~  
10 ~~RATE.—~~

11           (1) ~~IN GENERAL.—~~Section 473A(d) of such Act  
12 ~~(42 U.S.C. 673b(b)(1))~~ is amended—

13           (A) in paragraph (1), in the matter pre-  
14 ceeding subparagraph (A), by striking “para-  
15 graph (2)” and inserting “paragraphs (2) and  
16 (3)”;

17           (B) in paragraph (2), by striking “this sec-  
18 tion” each place it appears and inserting “para-  
19 graph (1)”;

20           (C) by adding at the end the following new  
21 paragraph:

22           “~~(3) INCREASED INCENTIVE PAYMENT FOR EX-~~  
23 ~~CEEDING THE HIGHEST EVER FOSTER CHILD ADOP-~~  
24 ~~TION RATE.—~~

25           “~~(A) IN GENERAL.—If—~~

1           “(i) for fiscal year 2009 or any fiscal  
 2           year thereafter the total amount of adop-  
 3           tion incentive payments payable under  
 4           paragraph (1) are less than the amount  
 5           appropriated under subsection (h) for the  
 6           fiscal year; and

7           “(ii) a State’s foster child adoption  
 8           rate for that fiscal year exceeds the highest  
 9           ever foster child adoption rate determined  
 10          for the State;

11          then the adoption incentive payment otherwise  
 12          determined under paragraph (1) for the State  
 13          shall be increased, subject to subparagraph (C),  
 14          by the amount determined for the State under  
 15          subparagraph (B).

16          “(B) AMOUNT OF INCREASE.—For pur-  
 17          poses of subparagraph (A), the amount deter-  
 18          mined under this subparagraph with respect to  
 19          a State and a fiscal year is the amount equal  
 20          to the product of—

21                 “(i) \$1,000; and

22                 “(ii) the excess of—

23                         “(I) the number of foster child  
 24                         adoptions in the State in the fiscal  
 25                         year; over

1                   “(H) the product (rounded to the  
2                   nearest whole number) of—

3                   “(aa) the highest ever foster  
4                   child adoption rate determined  
5                   for the State; and

6                   “(bb) the number of chil-  
7                   dren in foster care under the su-  
8                   pervision of the State on the last  
9                   day of the preceding fiscal year.

10                   “(C) PRO RATA ADJUSTMENT IF INSUFFI-  
11                   CIENT FUNDS AVAILABLE.—For any fiscal year,  
12                   if the total amount of increases in adoption in-  
13                   centive payments otherwise payable under this  
14                   paragraph for a fiscal year exceeds the amount  
15                   available for such increases for the fiscal year,  
16                   the amount of the increase payable to each  
17                   State under this paragraph for the fiscal year  
18                   shall be—

19                   “(i) the amount of the increase that  
20                   would otherwise be payable to the State  
21                   under this paragraph for the fiscal year;  
22                   multiplied by

23                   “(ii) the percentage represented by  
24                   the amount so available for the fiscal year,  
25                   divided by the total amount of increases

1 otherwise payable under this paragraph for  
 2 the fiscal year.”.

3 (2) DEFINITIONS.—Subsection (g) of section  
 4 473A of such Act (42 U.S.C. 673b) is amended by  
 5 adding at the end the following:

6 “(7) HIGHEST EVER FOSTER CHILD ADOPTION  
 7 RATE.—The term ‘highest ever foster child adoption  
 8 rate’ means, with respect to any fiscal year, the  
 9 highest foster child adoption rate determined for any  
 10 fiscal year in the period that begins with fiscal year  
 11 1998 and ends with the preceding fiscal year.

12 “(8) FOSTER CHILD ADOPTION RATE.—The  
 13 term ‘foster child adoption rate’ means, with respect  
 14 to a State and a fiscal year, the percentage deter-  
 15 mined by dividing—

16 “(A) the number of foster child adoptions  
 17 finalized in the State during the fiscal year; by

18 “(B) the number of children in foster care  
 19 under the supervision of the State on the last  
 20 day of the preceding fiscal year.”.

21 (3) CONFORMING AMENDMENTS.—

22 (A) STATE ELIGIBILITY.—Section  
 23 473A(b)(2) of such Act (42 U.S.C. 673b(b)(2))  
 24 is amended—

1 (i) in subparagraph (A), by striking  
2 “or” at the end;

3 (ii) in subparagraph (B), by striking  
4 the period at the end and inserting “; or”;  
5 and

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(C) the State’s foster child adoption rate for  
9 the fiscal year exceeds the highest ever foster child  
10 adoption rate determined for the State;”.

11 (B) DATA.—Section 473A(e)(2) of such  
12 Act (42 U.S.C. 673b(e)(2)), as amended by  
13 subsection (a)(3), is amended by inserting “,  
14 and the foster child adoption rate for the State  
15 for the fiscal year,” after “during a fiscal  
16 year;”.

17 (e) INCREASE IN INCENTIVE PAYMENTS FOR SPE-  
18 CIAL NEEDS ADOPTIONS AND OLDER CHILD ADOP-  
19 TIONS.—Section 473A(d)(1) of such Act (42 U.S.C.  
20 673b(d)(1)) is further amended—

21 (1) in subparagraph (C), as redesignated by  
22 subsection (b), by striking “\$2,000” and inserting  
23 “\$3,000”; and

24 (2) in subparagraph (D), as so redesignated, by  
25 striking “\$4,000” and inserting “\$8,000”.

1 (d) ~~UPDATING OF FISCAL YEAR USED IN DETER-~~  
 2 ~~MINING BASE NUMBERS OF ADOPTIONS.~~—Section  
 3 ~~473A(g)~~ of such Act (~~42 U.S.C. 673b(g)~~) is amended—

4 (1) in paragraph (3), by striking “means” and  
 5 all that follows and inserting “means, with respect  
 6 to any fiscal year, the number of foster child adop-  
 7 tions in the State in fiscal year 2007.”;

8 (2) in paragraph (4)—

9 (A) by inserting “that are not older child  
 10 adoptions” before “for a State”; and

11 (B) by striking “means” and all that fol-  
 12 lows and inserting “means, with respect to any  
 13 fiscal year, the number of special needs adop-  
 14 tions that are not older child adoptions in the  
 15 State in fiscal year 2007.”; and

16 (3) in paragraph (5), by striking “means” and  
 17 all that follows and inserting “means, with respect  
 18 to any fiscal year, the number of older child adop-  
 19 tions in the State in fiscal year 2007.”.

20 (e) ~~24-MONTH AVAILABILITY OF PAYMENTS TO~~  
 21 ~~STATES.~~—Section ~~473A(e)~~ of such Act (~~42 U.S.C.~~  
 22 ~~673b(e)~~) is amended—

23 (1) in the subsection heading, by striking “2-  
 24 YEAR” and inserting “24-MONTH”; and

1           (2) by striking “through the end of the suc-  
 2           ceeding fiscal year” and inserting “for a period of  
 3           24 months beginning with the month in which the  
 4           payments are made”.

5 **SEC. 102. PROMOTION OF ADOPTION OF CHILDREN WITH**  
 6           **SPECIAL NEEDS.**

7           (a) **ELIMINATION OF ELIGIBILITY BASED ON AFDC**  
 8 **AND SSI INCOME STANDARDS.**—Section 473(a)(2) of the  
 9 Social Security Act (42 U.S.C. 673(a)(2)) is amended—

10           (1) in subparagraph (A), by striking clauses (i)  
 11           and (ii) and inserting the following:

12           “(i)(I) at the time of termination of parental  
 13           rights was in the care of a public or licensed private  
 14           child placement agency or Indian tribal organization  
 15           pursuant to a voluntary placement agreement, relin-  
 16           quishment, or involuntary removal of the child from  
 17           the home, and the State has determined, pursuant  
 18           to criteria established by the State (which may, but  
 19           need not, include a judicial determination), that con-  
 20           tinuation in the home would be contrary to the safe-  
 21           ty or welfare of such child;

22           “(H) meets all medical or disability require-  
 23           ments of title XVI with respect to eligibility for sup-  
 24           plemental security income benefits; or

1           “(III) was residing in a foster family home or  
2 child care institution with the child’s minor parent,  
3 provided that the child’s minor parent was in such  
4 foster family home or child care institution pursuant  
5 to a voluntary placement agreement, relinquishment,  
6 or involuntary removal of the child from the home,  
7 and the State has determined, pursuant to criteria  
8 established by the State (which may, but need not,  
9 include judicial determination), that continuation in  
10 the home would be contrary to the safety or welfare  
11 of such child; and

12           “(ii) has been determined by the State, pursu-  
13 ant to subsection (c), to be a child with special  
14 needs, which needs shall be considered by the State,  
15 together with the circumstances of the adopting par-  
16 ents, in determining the amount of any payments to  
17 be made to the adopting parents.”; and

18           (2) by striking subparagraph (C) and inserting  
19 the following:

20           “(C) A child who meets the requirements of subpara-  
21 graph (A), who was determined eligible for adoption as-  
22 sistance payments under this part with respect to a prior  
23 adoption (or who would have been determined eligible for  
24 such payments had the Adoption and Safe Families Act  
25 of 1997 been in effect at the time that such determination

1 would have been made); and who is available for adoption  
 2 because the prior adoption has been dissolved and the pa-  
 3 rental rights of the adoptive parents have been terminated  
 4 or because the child's adoptive parents have died; shall be  
 5 treated as meeting the requirements of this paragraph for  
 6 purposes of paragraph (1)(B)(ii).”.

7 (b) EXCEPTION.—Section 473(a) of the Social Secu-  
 8 rity Act (42 U.S.C. 673(a)) is amended by adding at the  
 9 end the following:

10 “(7)(A) Notwithstanding any other provision of this  
 11 subsection, no payment may be made to parents with re-  
 12 spect to any child that—

13 (i) would be considered a child with special  
 14 needs under subsection (c);

15 (ii) is not a citizen or resident of the United  
 16 States; and

17 (iii) was adopted outside of the United States  
 18 or was brought into the United States for the pur-  
 19 pose of being adopted.

20 “(B) Subparagraph (A) shall not be construed as pro-  
 21 hibiting payments under this part for a child described  
 22 in subparagraph (A) that is placed in foster care subse-  
 23 quent to the failure, as determined by the State, of the  
 24 initial adoption of such child by the parents described in  
 25 such subparagraph.”.

1           (c) REQUIREMENT FOR USE OF STATE SAVINGS.—  
2 Section 473(a) of the Social Security Act (42 U.S.C.  
3 673(a)); as amended by subsection (b), is amended by  
4 adding at the end the following:

5           “(8) A State shall spend an amount equal to the  
6 amount of savings (if any) in State expenditures under  
7 this part resulting from the application of paragraph (2)  
8 on and after the effective date of the amendments to such  
9 paragraph made by section 102(a) of the Improved Adop-  
10 tion Incentives and Relative Guardianship Support Act of  
11 2008 to provide to children or families any service (includ-  
12 ing post-adoption services) that may be provided under  
13 this part or part B.”.

14           (d) DETERMINATION OF A CHILD WITH SPECIAL  
15 NEEDS.—Section 473(e) of the Social Security Act (42  
16 U.S.C. 673(e)) is amended to read as follows:

17           “(e) For purposes of this section, a child shall not  
18 be considered a child with special needs unless—

19                   “(1) the State has determined, pursuant to a  
20 criteria established by the State (which may or may  
21 not include a judicial determination), that the child  
22 cannot or should not be returned to the home of his  
23 parents; and

24                   “(2) the State has determined—

1           “(A) that there exists with respect to the  
2 child a specific factor or condition (such as eth-  
3 nic background, age, or membership in a minor-  
4 ity or sibling group, or the presence of factors  
5 such as medical conditions or physical, mental,  
6 or emotional handicaps) because of which it is  
7 reasonable to conclude that the child cannot be  
8 placed with adoptive parents without providing  
9 adoption assistance under this section and med-  
10 ical assistance under title XIX; and

11           “(B) that except where it would be against  
12 the best interests of the child because of such  
13 factors as the existence of significant emotional  
14 ties with prospective adoptive parents while in  
15 the care of such parents as a foster child, a rea-  
16 sonable, but unsuccessful, effort has been made  
17 to place the child with appropriate adoptive  
18 parents without providing adoption assistance  
19 under this section or medical assistance under  
20 title XIX.

21           A child who meets all medical or disability require-  
22 ments of title XVI with respect to eligibility for sup-  
23 plemental security income benefits shall be deemed  
24 to be a child for whom the determination required

1 by subparagraph (A) of paragraph (2) has been  
2 made.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on October 1, 2008, and shall  
5 apply to adoption assistance agreements executed on or  
6 after that date.

## 7 **TITLE II—SUPPORT FOR** 8 **RELATIVE GUARDIANSHIPS**

### 9 **SEC. 201. RELATIVE GUARDIANSHIP ASSISTANCE PAY-** 10 **MENTS FOR CHILDREN.**

11 (a) OPTION FOR STATES TO ENHANCE AND SUB-  
12 SIDIZE A RELATIVE GUARDIANSHIP PROGRAM.—

13 (1) STATE PLAN AMENDMENT.—Section  
14 471(a)(1) of the Social Security Act (42 U.S.C.  
15 671(a)(1)) is amended—

16 (A) by inserting “(A)” after “provides”;

17 (B) by adding “and” after the semicolon;

18 and

19 (C) by adding at the end the following:

20 “(B) at the option of the State, provides for rel-  
21 ative guardianship assistance payments in accord-  
22 ance with subsection (d) of section 473;”.

23 (b) REQUIREMENTS.—Section 473 of such Act (42  
24 U.S.C. 673) is amended by adding at the end the fol-  
25 lowing:

1       “(d) RELATIVE GUARDIANSHIP ASSISTANCE PAY-  
2 MENTS FOR CHILDREN.—

3           “(1) RELATIVE GUARDIANSHIP ASSISTANCE  
4 AGREEMENT.—

5           “(A) IN GENERAL.—In order to receive  
6 payments under section 474(a)(5), a State  
7 shall—

8           “(i) negotiate and enter into a writ-  
9 ten, binding relative guardianship assist-  
10 ance agreement with the relative guardian  
11 of a child who meets the requirements of  
12 paragraph (3)(B);

13           “(ii) provide the relative guardian  
14 with a copy of the agreement; and

15           “(iii) certify that any child on whose  
16 behalf relative guardianship assistance  
17 payments are made under the agreement  
18 shall be provided medical assistance under  
19 title XIX in accordance with section  
20 1902(a)(10)(A)(i)(I).

21           “(B) MINIMUM REQUIREMENTS.—The  
22 agreement shall specify, at a minimum—

23           “(i) the amount of, and manner in  
24 which, each relative guardianship assist-

1           ance payment will be provided under the  
2           agreement;

3           “(ii) the additional services and assist-  
4           ance that the child and relative guardian  
5           will be eligible for under the agreement;

6           “(iii) the procedure by which the rel-  
7           ative guardian may apply for additional  
8           services as needed, provided the agency  
9           and relative guardian agree on the addi-  
10          tional services as specified in the agree-  
11          ment; and

12          “(iv) that the State will pay up to  
13          \$2,000 of nonrecurring expenses associated  
14          with obtaining legal guardianship of the  
15          child.

16          “(C) INTERSTATE APPLICATION.—The  
17          agreement shall provide that the agreement  
18          shall remain in effect without regard to the  
19          State residency of the relative guardian.

20          “(D) FEDERAL REIMBURSEMENT OF NON-  
21          RECURRING EXPENSES.—A State’s payment of  
22          nonrecurring guardianship expenses under a  
23          relative guardianship assistance agreement in  
24          accordance with subparagraph (B)(iv) shall be  
25          treated as a direct expenditure made for the

1 proper and efficient administration of the State  
2 plan for purposes of section 474(a)(3)(E).

3 ~~“(2) RELATIVE GUARDIANSHIP ASSISTANCE~~  
4 ~~PAYMENT.—~~

5 ~~“(A) IN GENERAL.—Subject to subpara-~~  
6 ~~graphs (B) and (C), the relative guardianship~~  
7 ~~assistance payment shall be based on consider-~~  
8 ~~ation of the circumstances of the relative guard-~~  
9 ~~ian and the needs of the child.~~

10 ~~“(B) MINIMUM AND MAXIMUM PAY-~~  
11 ~~MENT.—A relative guardianship assistance pay-~~  
12 ~~ment shall not be less than the adoption assist-~~  
13 ~~ance payment the State would have made on~~  
14 ~~behalf of the child under an adoption assistance~~  
15 ~~agreement entered into under subsection (a)~~  
16 ~~and shall not exceed the foster care mainte-~~  
17 ~~nance payment which would have been paid if~~  
18 ~~the child had remained in a foster family home.~~

19 ~~“(C) PERIODIC ADJUSTMENTS.—A relative~~  
20 ~~guardianship assistance payment may be read-~~  
21 ~~justed periodically, with the concurrence of the~~  
22 ~~relative guardian (which may be specified in the~~  
23 ~~relative guardianship assistance agreement), de-~~  
24 ~~pending upon changes in the circumstances of~~  
25 ~~the relative guardian and the needs of the child.~~

1           “(D) LIMITATION.—No relative guardian-  
2           ship assistance payment may be made to a rel-  
3           ative guardian for any child who has attained  
4           18 years of age.

5           “(3) CHILD’S ELIGIBILITY FOR A RELATIVE  
6           GUARDIANSHIP ASSISTANCE PAYMENT.—

7           “(A) IN GENERAL.—A child is eligible for  
8           a relative guardianship assistance payment  
9           under this subsection if the State agency deter-  
10          mines the following:

11           “(i) The child—

12                   “(I) has been removed from his  
13                   or her home pursuant to a voluntary  
14                   placement agreement or as a result of  
15                   a judicial determination to the effect  
16                   that continuation in the home would  
17                   be contrary to the welfare of the child;  
18                   and

19                   “(II) in the month prior to the  
20                   establishment of the legal guardian-  
21                   ship, is eligible for foster care mainte-  
22                   nance payments under section 472.

23           “(ii) Being returned home or adopted  
24           are not appropriate permanency options  
25           for the child.

1           “(iii) The child demonstrates a strong  
2           attachment to the relative guardian and  
3           the relative guardian has a strong commit-  
4           ment to caring permanently for the child.

5           “(iv) The relative guardian satisfies  
6           the requirements of subparagraph (B).

7           “(v) With respect to a child who has  
8           attained 14 years of age, the child has  
9           been consulted regarding the relative  
10          guardianship arrangement.

11          “(B) REQUIREMENTS FOR RELATIVE  
12          GUARDIANS.—A relative guardian satisfies the  
13          requirements of this subparagraph if the rel-  
14          ative—

15               “(i) is the grandparent or other rel-  
16               ative of a child on whose behalf relative  
17               guardianship assistance payments are to  
18               be made;

19               “(ii) has satisfied the background  
20               checks required under section 471(a)(20);

21               “(iii) has met the State’s require-  
22               ments established under section 471(a)(10)  
23               to be a foster family home; and

1           “(iv) assumes legal guardianship of  
2           such child and commits to caring for the  
3           child on a permanent basis.

4           “(C) TREATMENT OF SIBLINGS.—With re-  
5           spect to a child described in subparagraph (A)  
6           whose sibling or siblings are not so described—

7                   “(i) the child and any sibling of the  
8                   child shall be placed in the same relative  
9                   guardianship arrangement unless it can be  
10                  demonstrated that it is inappropriate to do  
11                  so; and

12                   “(ii) relative guardianship assistance  
13                  payments may be paid for the child and  
14                  each sibling so placed.”.

15       (c) PAYMENTS TO STATES.—

16           (1) IN GENERAL.—Section 474(a) of such Act  
17       (42 U.S.C. 674(a)) is amended—

18                   (A) in paragraph (3)(B), by striking “fos-  
19                  ter or adoptive parents and the members of the  
20                  staff of State-licensed or State-approved child  
21                  care institutions providing care to foster and  
22                  adopted children receiving assistance under this  
23                  part, in ways that increase the ability of such  
24                  current or prospective parents, staff members,  
25                  and institutions to provide support and assist-

1           ance to foster and adopted children,” and in-  
 2           serting “foster parents, adoptive parents, or rel-  
 3           ative guardians and the members of the staff of  
 4           State-licensed or State-approved child care in-  
 5           stitutions providing care to foster children,  
 6           adoptive children, or children living with a rel-  
 7           ative guardian, who are receiving assistance  
 8           under this part, in ways that increase the abil-  
 9           ity of such current or prospective parents, rel-  
 10          ative guardians, staff members, and institutions  
 11          to provide support and assistance to foster chil-  
 12          dren, adoptive children, or children living with  
 13          a relative guardian,”;

14                 (B) in paragraph (4)(B), by striking the  
 15                 period at the end and inserting “; plus”;

16                 (C) by adding at the end the following:

17                 “(5) an amount equal to the Federal medical  
 18                 assistance percentage (as defined in section 1905(b))  
 19                 of the total amount expended during such quarter as  
 20                 relative guardianship assistance payments under sec-  
 21                 tion 473(d) pursuant to relative guardianship assist-  
 22                 ance agreements.”.

23                 (2) INCENTIVE PAYMENTS FOR RELATIVE  
 24                 GUARDIANSHIP PLACEMENT.—

1                   (A) IN GENERAL.—Section 473A of the  
 2                   Social Security Act (42 U.S.C. 673b) is amend-  
 3                   ed by adding at the end the following:

4                   “(j) INCENTIVE PAYMENTS FOR RELATIVE GUARD-  
 5                   IANSHIP PLACEMENTS.—

6                   “(1) USE OF UNAWARDED ADOPTION INCEN-  
 7                   TIVE FUNDS TO MAKE RELATIVE GUARDIANSHIP IN-  
 8                   CENTIVE PAYMENTS.—If in any fiscal year the total  
 9                   amount of adoption incentive payments payable  
 10                  under subsection (d) are less than the amount ap-  
 11                  propriated under subsection (h) for the fiscal year,  
 12                  States that have established a relative guardianship  
 13                  assistance program under section 471(a)(1)(B) shall  
 14                  be awarded, in addition to any adoption incentive  
 15                  payments made to such States under subsection (d),  
 16                  relative guardianship incentive payments from the  
 17                  portion of such amount that is in excess of the total  
 18                  amount of adoption incentive payments to be made  
 19                  under such subsection for such fiscal year.

20                  “(2) PAYMENT AMOUNT.—Subject to paragraph  
 21                  (3), the relative guardianship incentive payment pay-  
 22                  able to a State for a fiscal year under this sub-  
 23                  section shall be equal to—

24                               “(A) in the case of the first fiscal year in  
 25                               which the State establishes a relative guardian-

1 ship assistance program under section  
2 471(a)(1)(B); the product of \$1,000 and the  
3 number of relative guardianship assistance  
4 agreements entered into under section 473(d)  
5 in the State during that fiscal year; and

6 “(B) in the case of any succeeding fiscal  
7 year, the product of \$1,000 and the amount (if  
8 any) by which the number of relative guardian-  
9 ship assistance agreements entered into under  
10 section 473(d) in the State for the fiscal year  
11 exceed the base number of relative guardianship  
12 assistance agreements in the State for the fiscal  
13 year.

14 “(3) PRO RATA ADJUSTMENT IF INSUFFICIENT  
15 FUNDS AVAILABLE.—For any fiscal year, if the total  
16 amount of relative guardianship incentive payments  
17 otherwise payable under this subsection for a fiscal  
18 year exceeds the amount available for such payments  
19 for the fiscal year, the amount of the relative guard-  
20 ianship incentive payment payable to each State  
21 under this subsection for the fiscal year shall be—

22 “(A) the amount of the relative guardian-  
23 ship incentive payment that would otherwise be  
24 payable to the State under this subsection for  
25 the fiscal year; multiplied by

1           “(B) the percentage represented by the  
2           amount so available for the fiscal year, divided  
3           by the total amount of relative guardianship in-  
4           centive payments otherwise payable under this  
5           section for the fiscal year.”.

6           (B) DEFINITION OF BASE NUMBER OF  
7           RELATIVE GUARDIANSHIP ASSISTANCE AGREE-  
8           MENTS.—Subsection (g) of section 473A of  
9           such Act (42 U.S.C. 673b), as amended by sec-  
10          tion 101(b)(2), is amended by adding at the  
11          end the following:

12          “(9) BASE NUMBER OF RELATIVE GUARDIAN-  
13          SHIP ASSISTANCE AGREEMENTS.—The term ‘base  
14          number of relative guardianship assistance agree-  
15          ments’ means, with respect to a fiscal year, the  
16          number of relative guardianship assistance agree-  
17          ments entered into under section 473(d) in the State  
18          in the fiscal year for which the number is the great-  
19          est in the period that begins with the first fiscal year  
20          in which the State establishes a relative guardian-  
21          ship assistance program under section 471(a)(1)(B)  
22          and ends with the preceding fiscal year.”.

23          (C) CONFORMING AMENDMENT.—Sub-  
24          section (f) of section 473A of such Act (42  
25          U.S.C. 673b) is amended by inserting “and rel-

1           ative navigator and support services” after  
2           “post-adoption services”.

3           (d) MAINTAINING ELIGIBILITY FOR ADOPTION AS-  
4           SISTANCE PROGRAM.—Section 473(a) of the Social Secu-  
5           rity Act (42 U.S.C. 673(a)), as amended by subsections  
6           (b) and (c) of section 102, is amended by adding at the  
7           end the following:

8           “(9) A child on whose behalf relative guardianship  
9           assistance payments have been made under section 473(d)  
10          and who pursuant to subsection (c) has been determined  
11          to be a child with special needs, shall be eligible for adop-  
12          tion assistance as if no relative guardianship agreement  
13          or payments had been made. The State shall make pay-  
14          ments of nonrecurring adoption expenses under this sec-  
15          tion to the adoptive parents of such a child.”.

16          (e) ELIGIBILITY FOR INDEPENDENT LIVING SERV-  
17          ICES AND EDUCATION AND TRAINING VOUCHERS FOR  
18          CHILDREN WHO EXIT FOSTER CARE FOR RELATIVE  
19          GUARDIANSHIP OR ADOPTION AFTER AGE 16.—

20               (1) INDEPENDENT LIVING SERVICES.—Section  
21               477(a) of such Act (42 U.S.C. 677(a)) is amended—

22                       (A) by striking “and” at the end of para-  
23                       graph (5);

24                       (B) by striking the period at the end of  
25                       paragraph (6) and inserting “; and”; and

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

2 “(7) to provide the services referred to in this  
3 subsection to children who, after attaining 16 years  
4 of age, have left foster care for relative guardianship  
5 or adoption.”.

6 (2) EDUCATION AND TRAINING VOUCHERS.—

7 Section 477(i)(2) of such Act (42 U.S.C. 677(i)(2))  
8 is amended by striking “from foster care after at-  
9 taining age 16” and inserting “or entering relative  
10 guardianship from foster care after attaining 16  
11 years of age”.

12 (f) NOTICE REQUIREMENTS.—

13 (1) IV-E STATE PLAN REQUIREMENTS.—

14 (A) NOTICE TO RELATIVES.—Section  
15 471(a)(19) of such Act (42 U.S.C. 671(a)(19))  
16 is amended—

17 (i) by striking “that the State” and  
18 inserting “that—

19 “(A) the State”; and

20 (ii) by adding at the end the fol-  
21 lowing:

22 “(B) within 60 days of the removal of the  
23 child from the custody of the child’s parent or  
24 parents, the State shall exercise due diligence to  
25 identify and provide notice to all adult grand-

1 parents and other adult relatives of the child  
2 (including any other adult relatives suggested  
3 by the parents); subject to exceptions due to  
4 family or domestic violence; that—

5 “(i) specifies that the child has been  
6 or is being removed from the custody of  
7 the child’s parent or parents;

8 “(ii) explains the options the relative  
9 has under Federal, State, and local law to  
10 participate in the child’s care and place-  
11 ment, including any options that may be  
12 lost by failing to respond to the notice;

13 “(iii) describes the requirements  
14 under section 471(a)(10) to become a fos-  
15 ter family home and the additional services  
16 and supports that are available for children  
17 placed in such a home; and

18 “(iv) if the State has elected the op-  
19 tion to make relative guardianship assist-  
20 ance payments under paragraph (1)(B);  
21 describes how the relative may enter into  
22 an agreement with the State under section  
23 473(d) to receive such payments; and

24 “(C) with respect to any minor child (ex-  
25 cluding minor heads of households and their

1 spouses) receiving assistance under the State  
2 program funded under part A (or under a State  
3 program funded with qualified State expendi-  
4 tures (as defined in section 409(a)(7)(B)(i)))  
5 who is in the care of a nonparent caretaker rel-  
6 ative as a result of interaction with the State  
7 agency responsible for administering the pro-  
8 gram authorized under this part, and who does  
9 not have a parent in the home, the State shall  
10 provide the nonparent caretaker relative with  
11 notice that—

12 “(i) explains the options the relative  
13 has under Federal, State, and local law to  
14 participate in the child’s care and place-  
15 ment, including any options that may be  
16 lost by failing to respond to the notice;

17 “(ii) describes the requirements under  
18 section 471(a)(10) to become a foster fam-  
19 ily home and the additional services and  
20 supports that are available for children  
21 placed in such a home; and

22 “(iii) if the State has elected the op-  
23 tion to make relative guardianship assist-  
24 ance payments under paragraph (1)(B),  
25 describes how the relative may enter into

1           an agreement under section 473(d) with  
2           the State to receive such payments;”.

3           ~~(B) INFORMATION ON ADOPTION TAX~~  
4           ~~CREDIT.—Section 471(a) of such Act (42~~  
5           ~~U.S.C. 671(a)) is amended—~~

6                   (i) by striking “and” at the end of  
7                   paragraph (26);

8                   (ii) by striking the period at the end  
9                   of paragraph (27) and inserting “; and”;  
10                  and

11                   (iii) by adding at the end the fol-  
12                  lowing:

13                  “(28) provides that the State will inform any  
14                  individual who is adopting, or whom the State is  
15                  made aware is considering adopting, a child who is  
16                  in foster care under the responsibility of the State  
17                  of the potential eligibility of the individual for a  
18                  Federal tax credit (under section 23 of the Internal  
19                  Revenue Code) without the need to document any  
20                  adoption-related expenses.”.

21                  ~~(2) TANF PENALTY FOR FAILURE TO PROVIDE~~  
22                  ~~NOTICE.—Section 409(a) of such Act (42 U.S.C.~~  
23                  ~~609(a)) is amended by adding at the end the fol-~~  
24                  ~~lowing:~~

1           “(16) PENALTY FOR NONCOMPLIANCE WITH  
2 NOTICE REQUIREMENTS FOR RELATIVES UNDER  
3 PART E.—

4           “(A) IN GENERAL.—If the Secretary deter-  
5 mines that a State to which a grant is made  
6 under section 403 in a fiscal year has not exer-  
7 cised the due diligence required under section  
8 471(a)(19)(C) during the fiscal year, the Sec-  
9 retary shall reduce the grant payable to the  
10 State under section 403(a)(1) for the imme-  
11 diately succeeding fiscal year by an amount  
12 equal to not less than 1 percent and not more  
13 than 5 percent of the State family assistance  
14 grant.

15           “(B) PENALTY BASED ON SEVERITY OF  
16 FAILURE.—The Secretary shall impose reduc-  
17 tions under subparagraph (A) with respect to a  
18 fiscal year based on the degree of noncompli-  
19 ance.”.

20           (g) CASE PLAN REQUIREMENTS.—Section 475(1) of  
21 such Act (42 U.S.C. 675(1)) is amended by adding at the  
22 end the following:

23           “(F) In the case of a child with respect to  
24 whom the permanency plan is placement with a  
25 relative and receipt of relative guardianship as-

1           sistance payments under section 473(d), a de-  
2           scription of—

3                   “(i) the steps that the agency has  
4                   taken to determine that it is not appro-  
5                   priate for the child to be returned home or  
6                   adopted;

7                   “(ii) the reasons why a permanent  
8                   placement with a fit and willing relative  
9                   through a relative guardianship assistance  
10                  arrangement is in the child’s best interests;

11                  “(iii) the ways in which the child  
12                  meets the eligibility requirements for a rel-  
13                  ative guardianship assistance payment;

14                  “(iv) the efforts the agency has made  
15                  to discuss adoption by the child’s relative  
16                  guardian who is to receive such payments  
17                  as a more permanent alternative to legal  
18                  guardianship and, in the case of such a rel-  
19                  ative guardian who has chosen not to pur-  
20                  sue adoption, documentation of the reasons  
21                  therefor; and

22                  “(v) the efforts made by the State  
23                  agency to secure the consent of the child’s  
24                  parent or parents to the relative guardian-

1                   ship assistance arrangement, or the rea-  
2                   sons why the efforts were not made.”.

3           (h) REQUIREMENT TO CONDUCT CRIMINAL  
4 RECORDS AND CHILD ABUSE AND NEGLECT REGISTRY  
5 CHECKS.—Section 471(a)(20) of such Act (42 U.S.C.  
6 671(a)(20)) is amended—

7           (1) in subparagraph (A), in the matter pre-  
8           ceding clause (i) by striking “foster or adoptive par-  
9           ent before the foster or adoptive parent may be fi-  
10          nally approved for placement of a child on whose be-  
11          half foster care maintenance payments or adoption  
12          assistance payments” and inserting “foster parent,  
13          adoptive parent, or relative guardian before the fos-  
14          ter parent, adoptive parent, or relative guardian may  
15          be finally approved for placement of a child on  
16          whose behalf foster care maintenance payments,  
17          adoption assistance payments, or relative guardian-  
18          ship assistance payments”; and

19          (2) in subparagraph (B)(i) (as redesignated by  
20          section 152(b)(2) of Public Law 109–248), by strik-  
21          ing “prospective foster or adoptive parent and on  
22          any other adult living in the home” and all that fol-  
23          lows through “adoption assistance payments” and  
24          inserting “prospective foster parent, adoptive parent,  
25          or relative guardian and on any other adult living in

1 the home of such a prospective parent or relative  
 2 guardian, and request any other State in which any  
 3 such prospective parent, relative guardian, or other  
 4 adult has resided in the preceding 5 years, to enable  
 5 the State to check any child abuse and neglect reg-  
 6 istry maintained by such other State for such infor-  
 7 mation, before the prospective foster parent, adop-  
 8 tive parent, or relative may be finally approved for  
 9 placement of a child, regardless of whether foster  
 10 care maintenance payments, adoption assistance  
 11 payments, or relative guardianship assistance pay-  
 12 ments”.

13 (i) EFFECTIVE DATE.—The amendments made by  
 14 this section shall take effect on October 1, 2008, and shall  
 15 apply to relative guardianship agreements executed on or  
 16 after that date.

### 17 **TITLE III—MISCELLANEOUS**

#### 18 **SEC. 301. AUTHORITY FOR COMPARISONS AND DISCLO-** 19 **SURES OF INFORMATION IN THE FEDERAL** 20 **PARENT LOCATOR SERVICE FOR CHILD WEL-** 21 **FARE, FOSTER CARE, AND ADOPTION ASSIST-** 22 **ANCE PROGRAM PURPOSES.**

23 Section 453(j)(3) of such Act (42 U.S.C. 653(j)(3))  
 24 is amended, in the matter preceding subparagraph (A),  
 25 by inserting “, part B, part E,” after “this part”.

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

2       (a) *SHORT TITLE.*—*This Act may be cited as the “Im-*  
 3 *proved Adoption Incentives and Relative Guardianship*  
 4 *Support Act of 2008”.*

5       (b) *TABLE OF CONTENTS.*—*Table of contents for this*  
 6 *Act is as follows:*

*Sec. 1. Short title; table of contents.*

*TITLE I—EXTENSION AND IMPROVEMENT OF ADOPTION  
 INCENTIVES*

*Sec. 101. Extension of adoption incentives program.*

*Sec. 102. Promotion of adoption of children with special needs.*

*TITLE II—SUPPORT FOR RELATIVE GUARDIANSHIPS*

*Sec. 201. Relative guardianship assistance payments for children.*

*Sec. 202. Demonstration projects regarding licensing of immediate relative foster  
 parents.*

*Sec. 203. Grants to carry out kinship navigator programs.*

*Sec. 204. Authority for comparisons and disclosures of information in the Federal  
 Parent Locator Service for child welfare, foster care, and adop-  
 tion assistance program purposes.*

*TITLE III—TRIBAL FOSTER CARE AND ADOPTION ACCESS*

*Sec. 301. Equitable access for foster care and adoption services for Indian chil-  
 dren in tribal areas.*

*Sec. 302. Grants to States that successfully collaborate with and support Tribes  
 to improve permanency outcomes for Indian children.*

*Sec. 303. Establishment of National Child Welfare Resource Center for Tribes.*

*TITLE IV—SUPPORT FOR OLDER CHILDREN IN FOSTER CARE AND  
 OTHER PROVISIONS*

*Sec. 401. State option for children in foster care, and certain children in an  
 adoptive or guardianship placement, after attaining age 18.*

*Sec. 402. Transition plan for children aging out of foster care.*

*Sec. 403. Educational stability.*

*TITLE V—REVENUE PROVISIONS*

*Sec. 501. Clarification of uniform definition of child.*

*Sec. 502. Collection of unemployment compensation debts resulting from fraud.*

*Sec. 503. Investment of operating cash.*

1 **TITLE I—EXTENSION AND IM-**  
 2 **PROVEMENT OF ADOPTION**  
 3 **INCENTIVES**

4 **SEC. 101. EXTENSION OF ADOPTION INCENTIVES PROGRAM.**

5 (a) 5-YEAR EXTENSION.—Section 473A of the Social  
 6 Security Act (42 U.S.C. 673b) is amended—

7 (1) in subsection (b)(4), by striking “in the case  
 8 of fiscal years 2001 through 2007,”;

9 (2) in subsection (b)(5), by striking “1998  
 10 through 2007” and inserting “2008 through 2012”;

11 (3) in subsection (c)(2), by striking “each of fis-  
 12 cal years 2002 through 2007” and inserting “a fiscal  
 13 year”; and

14 (4) in each of subsections (h)(1)(D) and (h)(2),  
 15 by striking “2008” and inserting “2013”.

16 (b) ADDITIONAL INCENTIVE PAYMENT FOR EXCEEDING  
 17 THE HIGHEST EVER FOSTER CHILD ADOPTION RATE.—

18 (1) IN GENERAL.—Section 473A(d) of such Act  
 19 (42 U.S.C. 673b(b)(1)) is amended—

20 (A) in paragraph (1), in the matter pre-  
 21 ceding subparagraph (A), by striking “para-  
 22 graph (2)” and inserting “paragraphs (2) and  
 23 (3)”;

1           (B) in paragraph (2), by striking “this sec-  
2           tion” each place it appears and inserting “para-  
3           graph (1)”; and

4           (C) by adding at the end the following new  
5           paragraph:

6           “(3) *INCREASED INCENTIVE PAYMENT FOR EX-*  
7           *CEEDING THE HIGHEST EVER FOSTER CHILD ADOPT-*  
8           *TION RATE.—*

9           “(A) *IN GENERAL.—If—*

10           “(i) for fiscal year 2009 or any fiscal  
11           year thereafter the total amount of adoption  
12           incentive payments payable under para-  
13           graph (1) are less than the amount appro-  
14           priated under subsection (h) for the fiscal  
15           year; and

16           “(ii) a State’s foster child adoption  
17           rate for that fiscal year exceeds the highest  
18           ever foster child adoption rate determined  
19           for the State,

20           then the adoption incentive payment otherwise  
21           determined under paragraph (1) for the State  
22           shall be increased, subject to subparagraph (C),  
23           by the amount determined for the State under  
24           subparagraph (B).

1           “(B) *AMOUNT OF INCREASE.*—For purposes  
2 of subparagraph (A), the amount determined  
3 under this subparagraph with respect to a State  
4 and a fiscal year is the amount equal to the  
5 product of—

6                   “(i) \$1,000; and

7                   “(ii) the excess of—

8                         “(I) the number of foster child  
9 adoptions in the State in the fiscal  
10 year; over

11                        “(II) the product (rounded to the  
12 nearest whole number) of—

13                           “(aa) the highest ever foster  
14 child adoption rate determined for  
15 the State; and

16                           “(bb) the number of children  
17 in foster care under the super-  
18 vision of the State on the last day  
19 of the preceding fiscal year.

20           “(C) *PRO RATA ADJUSTMENT IF INSUFFI-*  
21 *CIENT FUNDS AVAILABLE.*—For any fiscal year,  
22 if the total amount of increases in adoption in-  
23 centive payments otherwise payable under this  
24 paragraph for a fiscal year exceeds the amount  
25 available for such increases for the fiscal year,

1           *the amount of the increase payable to each State*  
 2           *under this paragraph for the fiscal year shall*  
 3           *be—*

4                   “(i) *the amount of the increase that*  
 5                   *would otherwise be payable to the State*  
 6                   *under this paragraph for the fiscal year;*  
 7                   *multiplied by*

8                   “(ii) *the percentage represented by the*  
 9                   *amount so available for the fiscal year, di-*  
 10                   *vided by the total amount of increases oth-*  
 11                   *erwise payable under this paragraph for the*  
 12                   *fiscal year.”.*

13           (2) *DEFINITIONS.—Subsection (g) of section*  
 14           *473A of such Act (42 U.S.C. 673b) is amended by*  
 15           *adding at the end the following:*

16                   “(7) *HIGHEST EVER FOSTER CHILD ADOPTION*  
 17                   *RATE.—The term ‘highest ever foster child adoption*  
 18                   *rate’ means, with respect to any fiscal year, the high-*  
 19                   *est foster child adoption rate determined for any fis-*  
 20                   *cal year in the period that begins with fiscal year*  
 21                   *1998 and ends with the preceding fiscal year.*

22                   “(8) *FOSTER CHILD ADOPTION RATE.—The term*  
 23                   *‘foster child adoption rate’ means, with respect to a*  
 24                   *State and a fiscal year, the percentage determined by*  
 25                   *dividing—*

1           “(A) the number of foster child adoptions fi-  
2           nalized in the State during the fiscal year; by

3           “(B) the number of children in foster care  
4           under the supervision of the State on the last  
5           day of the preceding fiscal year.”.

6           (3) CONFORMING AMENDMENTS.—

7           (A)       STATE       ELIGIBILITY.—Section  
8           473A(b)(2) of such Act (42 U.S.C. 673b(b)(2)) is  
9           amended—

10                   (i) in subparagraph (A), by striking  
11                   “or” at the end;

12                   (ii) in subparagraph (B), by striking  
13                   the period at the end and inserting “; or”;  
14                   and

15                   (iii) by adding at the end the fol-  
16                   lowing:

17           “(C) the State’s foster child adoption rate for the  
18           fiscal year exceeds the highest ever foster child adop-  
19           tion rate determined for the State;”.

20           (B) DATA.—Section 473A(c)(2) of such Act  
21           (42 U.S.C. 673b(c)(2)), as amended by subsection  
22           (a)(3), is amended by inserting “, and the foster  
23           child adoption rate for the State for the fiscal  
24           year,” after “during a fiscal year,”.

1           (c) *INCREASE IN INCENTIVE PAYMENTS FOR SPECIAL*  
2 *NEEDS ADOPTIONS AND OLDER CHILD ADOPTIONS.*—*Sec-*  
3 *tion 473A(d)(1) of such Act (42 U.S.C. 673b(d)(1)) is fur-*  
4 *ther amended—*

5           (1) *in subparagraph (B), by striking “\$2,000”*  
6 *and inserting “\$3,000”; and*

7           (2) *in subparagraph (C), by striking “\$4,000”*  
8 *and inserting “\$8,000”.*

9           (d) *UPDATING OF FISCAL YEAR USED IN DETER-*  
10 *MINING BASE NUMBERS OF ADOPTIONS.*—*Section 473A(g)*  
11 *of such Act (42 U.S.C. 673b(g)) is amended—*

12           (1) *in paragraph (3), by striking “means” and*  
13 *all that follows and inserting “means, with respect to*  
14 *any fiscal year, the number of foster child adoptions*  
15 *in the State in fiscal year 2007.”;*

16           (2) *in paragraph (4)—*

17           (A) *by inserting “that are not older child*  
18 *adoptions” before “for a State”; and*

19           (B) *by striking “means” and all that fol-*  
20 *lows and inserting “means, with respect to any*  
21 *fiscal year, the number of special needs adop-*  
22 *tions that are not older child adoptions in the*  
23 *State in fiscal year 2007.”; and*

24           (3) *in paragraph (5), by striking “means” and*  
25 *all that follows and inserting “means, with respect to*



1       *may, but need not, include a judicial determination),*  
2       *that continuation in the home would be contrary to*  
3       *the safety or welfare of such child;*

4               *“(II) meets all medical or disability require-*  
5       *ments of title XVI with respect to eligibility for sup-*  
6       *plemental security income benefits; or*

7               *“(III) was residing in a foster family home or*  
8       *child care institution with the child’s minor parent,*  
9       *provided that the child’s minor parent was in such*  
10       *foster family home or child care institution pursuant*  
11       *to a voluntary placement agreement, relinquishment,*  
12       *or involuntary removal of the child from the home,*  
13       *and the State has determined, pursuant to criterion*  
14       *or criteria established by the State (which may, but*  
15       *need not, include judicial determination), that con-*  
16       *tinuation in the home would be contrary to the safety*  
17       *or welfare of such child; and*

18               *“(i) has been determined by the State, pursuant*  
19       *to subsection (c), to be a child with special needs.”;*  
20       *and*

21               *(2) by striking subparagraph (C) and inserting*  
22       *the following:*

23               *“(C) A child who meets the requirements of subpara-*  
24       *graph (A)(i), who was determined eligible for adoption as-*  
25       *sistance payments under this part with respect to a prior*

1 *adoption (or who would have been determined eligible for*  
2 *such payments had the Adoption and Safe Families Act of*  
3 *1997 been in effect at the time that such determination*  
4 *would have been made), and who is available for adoption*  
5 *because the prior adoption has been dissolved and the pa-*  
6 *rental rights of the adoptive parents have been terminated*  
7 *or because the child’s adoptive parents have died, shall be*  
8 *treated as meeting the requirements of this paragraph for*  
9 *purposes of paragraph (1)(B)(ii).”.*

10 *(b) EXCEPTION.—Section 473(a) of the Social Security*  
11 *Act (42 U.S.C. 673(a)) is amended by adding at the end*  
12 *the following:*

13 *“(7)(A) Notwithstanding any other provision of this*  
14 *subsection, no payment may be made to parents with re-*  
15 *spect to any child that—*

16 *“(i) would be considered a child with special*  
17 *needs under subsection (c);*

18 *“(ii) is not a citizen or resident of the United*  
19 *States; and*

20 *“(iii) was adopted outside of the United States*  
21 *or was brought into the United States for the purpose*  
22 *of being adopted.*

23 *“(B) Subparagraph (A) shall not be construed as pro-*  
24 *hibiting payments under this part for a child described in*  
25 *subparagraph (A) that is placed in foster care subsequent*

1 *to the failure, as determined by the State, of the initial*  
 2 *adoption of such child by the parents described in such sub-*  
 3 *paragraph.”.*

4 *(c) REQUIREMENT FOR USE OF STATE SAVINGS.—Sec-*  
 5 *tion 473(a) of the Social Security Act (42 U.S.C. 673(a)),*  
 6 *as amended by subsection (b), is amended by adding at the*  
 7 *end the following:*

8 *“(8) A State shall spend an amount equal to the*  
 9 *amount of savings (if any) in State expenditures under this*  
 10 *part resulting from the application of paragraph (2) on and*  
 11 *after the effective date of the amendments to such paragraph*  
 12 *made by section 102(a) of the Improved Adoption Incentives*  
 13 *and Relative Guardianship Support Act of 2008 to provide*  
 14 *to children or families any service (including post-adoption*  
 15 *services) that may be provided under this part or part B.”.*

16 *(d) DETERMINATION OF A CHILD WITH SPECIAL*  
 17 *NEEDS.—Section 473(c) of the Social Security Act (42*  
 18 *U.S.C. 673(c)) is amended to read as follows:*

19 *“(c) For purposes of this section, a child shall not be*  
 20 *considered a child with special needs unless—*

21 *“(1) the State has determined, pursuant to a cri-*  
 22 *terion or criteria established by the State (which may,*  
 23 *but need not, include a judicial determination), that*  
 24 *the child cannot or should not be returned to the home*  
 25 *of his parents; and*

1           “(2) *the State has determined—*

2                   “(A) *that there exists with respect to the*  
3 *child a specific factor or condition (such as eth-*  
4 *nic background, age, or membership in a minor-*  
5 *ity or sibling group, or the presence of factors*  
6 *such as medical conditions or physical, mental,*  
7 *or emotional handicaps) because of which it is*  
8 *reasonable to conclude that the child cannot be*  
9 *placed with adoptive parents without providing*  
10 *adoption assistance under this section and med-*  
11 *ical assistance under title XIX; and*

12                   “(B) *that except where it would be against*  
13 *the best interests of the child because of such fac-*  
14 *tors as the existence of significant emotional ties*  
15 *with prospective adoptive parents while in the*  
16 *care of such parents as a foster child, a reason-*  
17 *able, but unsuccessful, effort has been made to*  
18 *place the child with appropriate adoptive par-*  
19 *ents without providing adoption assistance*  
20 *under this section or medical assistance under*  
21 *title XIX.*

22           *A child who meets all medical or disability require-*  
23 *ments of title XVI with respect to eligibility for sup-*  
24 *plemental security income benefits shall be deemed to*

1       *be a child for whom the determination required by*  
2       *subparagraph (A) of paragraph (2) has been made.”.*

3       *(e) EFFECTIVE DATE.—*

4             *(1) IN GENERAL.—Subject to paragraph (2), the*  
5       *amendments made by this section shall apply to*  
6       *adoption assistance agreements entered into on or*  
7       *after October 1, 2012.*

8             *(2) EARLIER PHASED-IN APPLICATION ON THE*  
9       *BASIS OF AGE.—In the case of any adoption assist-*  
10       *ance agreement entered into on or after—*

11             *(A) October 1, 2010, the amendments made*  
12       *by this section shall apply to the agreement if*  
13       *the child on whose behalf the agreement is en-*  
14       *tered into has attained age 12 on or before the*  
15       *date on which the agreement is executed; and*

16             *(B) October 1, 2011, the amendments made*  
17       *by this section shall apply to the agreement if*  
18       *the child on whose behalf the agreement is en-*  
19       *tered into has attained age 6 on or before the*  
20       *date on which the agreement is executed.*

1                   **TITLE II—SUPPORT FOR**  
 2                   **RELATIVE GUARDIANSHIPS**

3   **SEC. 201. RELATIVE GUARDIANSHIP ASSISTANCE PAY-**  
 4                   **MENTS FOR CHILDREN.**

5           (a) *OPTION FOR STATES TO ENHANCE AND SUBSIDIZE*  
 6   *A RELATIVE GUARDIANSHIP PROGRAM.—*

7           (1) *STATE PLAN AMENDMENT.—Section*  
 8           *471(a)(1) of the Social Security Act (42 U.S.C.*  
 9           *671(a)(1)) is amended—*

10                   (A) *by inserting “(A)” after “provides”;*

11                   (B) *by adding “and” after the semicolon;*

12                   *and*

13                   (C) *by adding at the end the following:*

14                   *“(B) at the option of the State, provides for rel-*  
 15                   *ative guardianship assistance payments in accord-*  
 16                   *ance with subsection (d) of section 473;”.*

17           (b) *REQUIREMENTS.—Section 473 of such Act (42*  
 18           *U.S.C. 673) is amended by adding at the end the following:*

19                   *“(d) RELATIVE GUARDIANSHIP ASSISTANCE PAY-*  
 20                   *MENTS FOR CHILDREN.—*

21                   *“(1) RELATIVE GUARDIANSHIP ASSISTANCE*  
 22                   *AGREEMENT.—*

23                   *“(A) IN GENERAL.—In order to receive pay-*  
 24                   *ments under section 474(a)(5), a State shall—*

1           “(i) negotiate and enter into a written,  
2           binding relative guardianship assistance  
3           agreement with the relative guardian of a  
4           child who meets the requirements of para-  
5           graph (3)(B); and

6           “(ii) provide the relative guardian  
7           with a copy of the agreement.

8           “(B)     MINIMUM     REQUIREMENTS.—The  
9           agreement shall specify, at a minimum—

10           “(i) the amount of, and manner in  
11           which, each relative guardianship assistance  
12           payment will be provided under the agree-  
13           ment;

14           “(ii) the additional services and assist-  
15           ance that the child and relative guardian  
16           will be eligible for under the agreement;

17           “(iii) the procedure by which the rel-  
18           ative guardian may apply for additional  
19           services as needed, provided the agency and  
20           relative guardian agree on the additional  
21           services as specified in the agreement; and

22           “(iv) that the State will pay up to  
23           \$2,000 of nonrecurring expenses associated  
24           with obtaining legal guardianship of the  
25           child.

1           “(C) *INTERSTATE APPLICATION.*—*The*  
2           *agreement shall provide that the agreement shall*  
3           *remain in effect without regard to the State resi-*  
4           *dency of the relative guardian.*

5           “(D) *FEDERAL REIMBURSEMENT OF NON-*  
6           *RECURRING EXPENSES.*—*A State’s payment of*  
7           *nonrecurring guardianship expenses under a rel-*  
8           *ative guardianship assistance agreement in ac-*  
9           *cordance with subparagraph (B)(iv) shall be*  
10          *treated as a direct expenditure made for the*  
11          *proper and efficient administration of the State*  
12          *plan for purposes of section 474(a)(3)(E).*

13          “(2) *RELATIVE GUARDIANSHIP ASSISTANCE PAY-*  
14          *MENT.*—

15                 “(A) *IN GENERAL.*—*Subject to subpara-*  
16                 *graphs (B) and (C), the relative guardianship*  
17                 *assistance payment shall be based on consider-*  
18                 *ation of the circumstances of the relative guard-*  
19                 *ian and the needs of the child.*

20                 “(B) *MINIMUM AND MAXIMUM PAYMENT.*—*A*  
21                 *relative guardianship assistance payment shall*  
22                 *not be less than the adoption assistance payment*  
23                 *the State would have made on behalf of the child*  
24                 *under an adoption assistance agreement entered*  
25                 *into under subsection (a) and shall not exceed*

1           *the foster care maintenance payment which*  
2           *would have been paid if the child had remained*  
3           *in a foster family home.*

4           “(C) *PERIODIC ADJUSTMENTS.*—*A relative*  
5           *guardianship assistance payment may be read-*  
6           *justed periodically, with the concurrence of the*  
7           *relative guardian (which may be specified in the*  
8           *relative guardianship assistance agreement), de-*  
9           *pending upon changes in the circumstances of*  
10          *the relative guardian and the needs of the child.*

11          “(3) *CHILD’S ELIGIBILITY FOR A RELATIVE*  
12          *GUARDIANSHIP ASSISTANCE PAYMENT.*—

13                 “(A) *IN GENERAL.*—*A child is eligible for a*  
14                 *relative guardianship assistance payment under*  
15                 *this subsection if the State agency determines the*  
16                 *following:*

17                         “(i) *The child—*

18                                 “(I) *has been removed from his or*  
19                                 *her home pursuant to a voluntary*  
20                                 *placement agreement or as a result of*  
21                                 *a judicial determination to the effect*  
22                                 *that continuation in the home would be*  
23                                 *contrary to the welfare of the child;*  
24                                 *and*

1                   “(II) in the month prior to the es-  
2                   tablishment of the legal guardianship,  
3                   is eligible for foster care maintenance  
4                   payments under section 472.

5                   “(ii)(I) Being returned home or adopt-  
6                   ed are not appropriate permanency options  
7                   for the child.

8                   “(II) In the case of a child who has  
9                   been removed from the home for reasons pri-  
10                  marily associated with parental substance  
11                  abuse and addiction, attempts to engage the  
12                  family in residential, comprehensive family  
13                  treatment programs are inappropriate or  
14                  have been unsuccessful or such programs are  
15                  unavailable.

16                  “(iii) The child demonstrates a strong  
17                  attachment to the relative guardian and the  
18                  relative guardian has a strong commitment  
19                  to caring permanently for the child.

20                  “(iv) The relative guardian satisfies  
21                  the requirements of subparagraph (B).

22                  “(v) With respect to a child who has  
23                  attained 14 years of age, the child has been  
24                  consulted regarding the relative guardian-  
25                  ship arrangement.

1           “(B) *REQUIREMENTS FOR RELATIVE*  
2           *GUARDIANS.—A relative guardian satisfies the*  
3           *requirements of this subparagraph if the rel-*  
4           *ative—*

5                   “(i) *is the grandparent or other rel-*  
6                   *ative of a child on whose behalf relative*  
7                   *guardianship assistance payments are to be*  
8                   *made;*

9                   “(ii) *has satisfied the background*  
10                  *checks required under section 471(a)(20);*

11                  “(iii) *has met the State’s requirements*  
12                  *established under section 471(a)(10) to be a*  
13                  *foster family home; and*

14                  “(iv) *assumes legal guardianship of*  
15                  *such child and commits to caring for the*  
16                  *child on a permanent basis.*

17           “(C) *TREATMENT OF SIBLINGS.—With re-*  
18           *spect to a child described in subparagraph (A)*  
19           *whose sibling or siblings are not so described—*

20                   “(i) *the child and any sibling of the*  
21                   *child shall be placed in the same relative*  
22                   *guardianship arrangement unless it can be*  
23                   *demonstrated that it is inappropriate to do*  
24                   *so; and*

1                   “(ii) relative guardianship assistance  
2                   payments may be paid for the child and  
3                   each sibling so placed.”.

4           (c) *PAYMENTS TO STATES.*—

5                   (1) *IN GENERAL.*—Section 474(a) of such Act  
6                   (42 U.S.C. 674(a)) is amended—

7                   (A) in paragraph (3)(B), by striking “foster  
8                   or adoptive parents and the members of the staff  
9                   of State-licensed or State-approved child care in-  
10                  stitutions providing care to foster and adopted  
11                  children receiving assistance under this part, in  
12                  ways that increase the ability of such current or  
13                  prospective parents, staff members, and institu-  
14                  tions to provide support and assistance to foster  
15                  and adopted children,” and inserting “foster  
16                  parents, adoptive parents, or relative guardians  
17                  and the members of the staff of State-licensed or  
18                  State-approved child care institutions providing  
19                  care to foster children, adoptive children, or chil-  
20                  dren living with a relative guardian, who are re-  
21                  ceiving assistance under this part, in ways that  
22                  increase the ability of such current or prospective  
23                  parents, relative guardians, staff members, and  
24                  institutions to provide support and assistance to

1           *foster children, adoptive children, or children liv-*  
 2           *ing with a relative guardian,”;*

3                   *(B) in paragraph (4)(B), by striking the pe-*  
 4           *riod at the end and inserting “; plus”; and*

5                   *(C) by adding at the end the following:*

6           “*(5) an amount equal to the Federal medical as-*  
 7           *sistance percentage (as defined in section 1905(b)) of*  
 8           *the total amount expended during such quarter as rel-*  
 9           *ative guardianship assistance payments under section*  
 10           *473(d) pursuant to relative guardianship assistance*  
 11           *agreements.”.*

12                   (2) *INCENTIVE PAYMENTS FOR RELATIVE GUARD-*  
 13           *IANSHIP PLACEMENT.—*

14                   (A) *IN GENERAL.—Section 473A of the So-*  
 15           *cial Security Act (42 U.S.C. 673b) is amended*  
 16           *by adding at the end the following:*

17           “(j) *INCENTIVE PAYMENTS FOR RELATIVE GUARDIAN-*  
 18           *SHIP PLACEMENTS.—*

19                   (1) *USE OF UNAWARDED ADOPTION INCENTIVE*  
 20           *FUNDS TO MAKE RELATIVE GUARDIANSHIP INCENTIVE*  
 21           *PAYMENTS.—If in any fiscal year the total amount of*  
 22           *adoption incentive payments payable under sub-*  
 23           *section (d) are less than the amount appropriated*  
 24           *under subsection (h) for the fiscal year, States that*  
 25           *have established a relative guardianship assistance*

1        *program under section 471(a)(1)(B) shall be awarded,*  
2        *in addition to any adoption incentive payments made*  
3        *to such States under subsection (d), relative guard-*  
4        *ianship incentive payments from the portion of such*  
5        *amount that is in excess of the total amount of adop-*  
6        *tion incentive payments to be made under such sub-*  
7        *section for such fiscal year.*

8            *“(2) PAYMENT AMOUNT.—Subject to paragraph*  
9        *(3), the relative guardianship incentive payment pay-*  
10       *able to a State for a fiscal year under this subsection*  
11       *shall be equal to—*

12            *“(A) in the case of the first fiscal year in*  
13        *which the State establishes a relative guardian-*  
14        *ship assistance program under section*  
15        *471(a)(1)(B), the product of \$1,000 and the*  
16        *number of relative guardianship assistance*  
17        *agreements entered into under section 473(d) in*  
18        *the State during that fiscal year; and*

19            *“(B) in the case of any succeeding fiscal*  
20        *year, the product of \$1,000 and the amount (if*  
21        *any) by which the number of relative guardian-*  
22        *ship assistance agreements entered into under*  
23        *section 473(d) in the State for the fiscal year ex-*  
24        *ceed the base number of relative guardianship*

1           *assistance agreements in the State for the fiscal*  
2           *year.*

3           “(3) *PRO RATA ADJUSTMENT IF INSUFFICIENT*  
4           *FUNDS AVAILABLE.—For any fiscal year, if the total*  
5           *amount of relative guardianship incentive payments*  
6           *otherwise payable under this subsection for a fiscal*  
7           *year exceeds the amount available for such payments*  
8           *for the fiscal year, the amount of the relative guard-*  
9           *ianship incentive payment payable to each State*  
10          *under this subsection for the fiscal year shall be—*

11                   “(A) *the amount of the relative guardian-*  
12                   *ship incentive payment that would otherwise be*  
13                   *payable to the State under this subsection for the*  
14                   *fiscal year; multiplied by*

15                   “(B) *the percentage represented by the*  
16                   *amount so available for the fiscal year, divided*  
17                   *by the total amount of relative guardianship in-*  
18                   *centive payments otherwise payable under this*  
19                   *section for the fiscal year.”.*

20                   “(B) *DEFINITION OF BASE NUMBER OF REL-*  
21                   *ATIVE GUARDIANSHIP ASSISTANCE AGREE-*  
22                   *MENTS.—Subsection (g) of section 473A of such*  
23                   *Act (42 U.S.C. 673b), as amended by section*  
24                   *101(b)(2), is amended by adding at the end the*  
25                   *following:*

1           “(9) *BASE NUMBER OF RELATIVE GUARDIANSHIP*  
 2           *ASSISTANCE AGREEMENTS.*—*The term ‘base number of*  
 3           *relative guardianship assistance agreements’ means,*  
 4           *with respect to a fiscal year, the number of relative*  
 5           *guardianship assistance agreements entered into*  
 6           *under section 473(d) in the State in the fiscal year*  
 7           *for which the number is the greatest in the period that*  
 8           *begins with the first fiscal year in which the State es-*  
 9           *tablishes a relative guardianship assistance program*  
 10           *under section 471(a)(1)(B) and ends with the pre-*  
 11           *ceding fiscal year.’’.*

12                           (C) *CONFORMING AMENDMENT.*—*Subsection*  
 13                           *(f) of section 473A of such Act (42 U.S.C. 673b)*  
 14                           *is amended by inserting ‘‘and relative navigator*  
 15                           *and support services’’ after ‘‘post-adoption serv-*  
 16                           *ices’’.*

17           (d) *MAINTAINING ELIGIBILITY FOR ADOPTION ASSIST-*  
 18           *ANCE PROGRAM AND TITLE XIX.*—*Section 473 of the Social*  
 19           *Security Act (42 U.S.C. 673) is amended—*

20                           (1) *in subsection (a), as amended by subsections*  
 21                           *(b) and (c) of section 102, by adding at the end the*  
 22                           *following:*

23                           “(9) *A child on whose behalf relative guardianship as-*  
 24                           *sistance payments have been made under section 473(d) and*  
 25                           *who pursuant to subsection (c) has been determined to be*

1 *a child with special needs, shall be eligible for adoption as-*  
 2 *sistance as if no relative guardianship assistance agreement*  
 3 *or payments had been made. The State shall make pay-*  
 4 *ments of nonrecurring adoption expenses under this section*  
 5 *to the adoptive parents of such a child.”; and*

6 (2) *in subsection (b)(3)—*

7 (A) *in subparagraph (A)(ii), by striking*  
 8 *“or” at the end;*

9 (B) *in subparagraph (B), by striking the*  
 10 *period at the end and inserting “, or”; and*

11 (C) *by adding at the end the following:*

12 *“(C) with respect to whom relative guardianship*  
 13 *assistance payments are being made under subsection*  
 14 *(d).”.*

15 (e) *ELIGIBILITY FOR INDEPENDENT LIVING SERVICES*  
 16 *AND EDUCATION AND TRAINING VOUCHERS FOR CHILDREN*  
 17 *WHO EXIT FOSTER CARE FOR RELATIVE GUARDIANSHIP*  
 18 *OR ADOPTION AFTER AGE 16.—*

19 (1) *INDEPENDENT LIVING SERVICES.—Section*  
 20 *477(a) of such Act (42 U.S.C. 677(a)) is amended—*

21 (A) *by striking “and” at the end of para-*  
 22 *graph (5);*

23 (B) *by striking the period at the end of*  
 24 *paragraph (6) and inserting “; and”; and*

25 (C) *by adding at the end the following:*

1           “(7) to provide the services referred to in this  
2 subsection to children who, after attaining 16 years  
3 of age, have left foster care for relative guardianship  
4 or adoption.”.

5           (2) *EDUCATION AND TRAINING VOUCHERS.*—*Sec-*  
6 *tion 477(i)(2) of such Act (42 U.S.C. 677(i)(2)) is*  
7 *amended by striking “from foster care after attaining*  
8 *age 16” and inserting “or entering relative guardian-*  
9 *ship from foster care after attaining 16 years of age”.*

10 (f) *NOTICE REQUIREMENTS.*—

11           (1) *IV–E STATE PLAN REQUIREMENTS.*—

12           (A) *NOTICE TO RELATIVES.*—*Section*  
13 *471(a)(19) of such Act (42 U.S.C. 671(a)(19)) is*  
14 *amended—*

15                   (i) *by striking “that the State” and in-*  
16 *serting “that—*

17 *“(A) the State”; and*

18                   (ii) *by adding at the end the following:*

19                   “(B) *within 60 days of the removal of the*  
20 *child from the custody of the child’s parent or*  
21 *parents, the State shall exercise due diligence to*  
22 *identify and provide notice to all adult grand-*  
23 *parents and other adult relatives of the child (in-*  
24 *cluding any other adult relatives suggested by*

1           the parents), subject to exceptions due to family  
2           or domestic violence, that—

3                   “(i) specifies that the child has been or  
4                   is being removed from the custody of the  
5                   child’s parent or parents;

6                   “(ii) explains the options the relative  
7                   has under Federal, State, and local law to  
8                   participate in the child’s care and place-  
9                   ment, including any options that may be  
10                  lost by failing to respond to the notice;

11                  “(iii) describes the requirements under  
12                  paragraph (10) to become a foster family  
13                  home and the additional services and sup-  
14                  ports that are available for children placed  
15                  in such a home; and

16                  “(iv) if the State has elected the option  
17                  to make relative guardianship assistance  
18                  payments under paragraph (1)(B), de-  
19                  scribes how the relative may enter into an  
20                  agreement with the State under section  
21                  473(d) to receive such payments; and

22                  “(C) with respect to any minor child (ex-  
23                  cluding minor heads of households and their  
24                  spouses) receiving assistance under the State  
25                  program funded under part A (or under a State

1           *program funded with qualified State expendi-*  
2           *tures (as defined in section 409(a)(7)(B)(i))*  
3           *who is in the care of a nonparent caretaker rel-*  
4           *ative as a result of interaction with the State*  
5           *agency responsible for administering the pro-*  
6           *gram authorized under this part, and who does*  
7           *not have a parent in the home, the State shall*  
8           *provide the nonparent caretaker relative with no-*  
9           *tice that—*

10                   “(i) explains the options the relative  
11                   has under Federal, State, and local law to  
12                   participate in the child’s care and place-  
13                   ment, including any options that may be  
14                   lost by failing to respond to the notice;

15                   “(ii) describes the requirements under  
16                   section 471(a)(10) to become a foster family  
17                   home and the additional services and sup-  
18                   ports that are available for children placed  
19                   in such a home; and

20                   “(iii) if the State has elected the option  
21                   to make relative guardianship assistance  
22                   payments under paragraph (1)(B), de-  
23                   scribes how the relative may enter into an  
24                   agreement under section 473(d) with the  
25                   State to receive such payments;”.

1                   (B) *INFORMATION ON ADOPTION TAX CRED-*  
2                   *IT.—Section 471(a) of such Act (42 U.S.C.*  
3                   *671(a)) is amended—*

4                   (i) *by striking “and” at the end of*  
5                   *paragraph (26);*

6                   (ii) *by striking the period at the end of*  
7                   *paragraph (27) and inserting “; and”; and*

8                   (iii) *by adding at the end the fol-*  
9                   *lowing:*

10                   *“(28) provides that the State will inform any in-*  
11                   *dividual who is adopting, or whom the State is made*  
12                   *aware is considering adopting, a child who is in fos-*  
13                   *ter care under the responsibility of the State of the*  
14                   *potential eligibility of the individual for a Federal*  
15                   *tax credit under section 23 of the Internal Revenue*  
16                   *Code of 1986 (without the need to document any*  
17                   *adoption-related expenses, in the case of the adoption*  
18                   *of a child with special needs (as defined in section*  
19                   *23(d)(3) of such Code)).”.*

20                   (2) *TANF PENALTY FOR FAILURE TO PROVIDE*  
21                   *NOTICE.—Section 409(a) of such Act (42 U.S.C.*  
22                   *609(a)) is amended by adding at the end the fol-*  
23                   *lowing:*

1           “(16) *PENALTY FOR NONCOMPLIANCE WITH NO-*  
2           *TICE REQUIREMENTS FOR RELATIVES UNDER PART*  
3           *E.—*

4                   “(A) *IN GENERAL.—If the Secretary deter-*  
5                   *mines that a State to which a grant is made*  
6                   *under section 403 in a fiscal year has not exer-*  
7                   *cised the due diligence required under section*  
8                   *471(a)(19)(C) during the fiscal year, the Sec-*  
9                   *retary shall reduce the grant payable to the State*  
10                   *under section 403(a)(1) for the immediately suc-*  
11                   *ceeding fiscal year by an amount equal to not*  
12                   *less than 1 percent and not more than 3.5 per-*  
13                   *cent of the State family assistance grant.*

14                   “(B) *PENALTY BASED ON SEVERITY OF*  
15                   *FAILURE.—The Secretary shall impose reduc-*  
16                   *tions under subparagraph (A) with respect to a*  
17                   *fiscal year based on the degree of noncompli-*  
18                   *ance.”.*

19           (g) *CASE PLAN REQUIREMENTS.—Section 475(1) of*  
20           *such Act (42 U.S.C. 675(1)) is amended by adding at the*  
21           *end the following:*

22                   “(F) *In the case of a child with respect to*  
23                   *whom the permanency plan is placement with a*  
24                   *relative and receipt of relative guardianship as-*

1           *sistance payments under section 473(d), a de-*  
2           *scription of—*

3                     *“(i) the steps that the agency has taken*  
4                     *to determine that it is not appropriate for*  
5                     *the child to be returned home or adopted;*

6                     *“(ii) the reasons why a permanent*  
7                     *placement with a fit and willing relative*  
8                     *through a relative guardianship assistance*  
9                     *arrangement is in the child’s best interests;*

10                    *“(iii) the ways in which the child*  
11                    *meets the eligibility requirements for a rel-*  
12                    *ative guardianship assistance payment;*

13                    *“(iv) the efforts the agency has made to*  
14                    *discuss adoption by the child’s relative*  
15                    *guardian who is to receive such payments*  
16                    *as a more permanent alternative to legal*  
17                    *guardianship and, in the case of such a rel-*  
18                    *ative guardian who has chosen not to pur-*  
19                    *sue adoption, documentation of the reasons*  
20                    *therefor; and*

21                    *“(v) the efforts made by the State agen-*  
22                    *cy to secure the consent of the child’s parent*  
23                    *or parents to the relative guardianship as-*  
24                    *sistance arrangement, or the reasons why*  
25                    *the efforts were not made.”.*

1        *(h) REQUIREMENT TO CONDUCT CRIMINAL RECORDS*  
2 *AND CHILD ABUSE AND NEGLECT REGISTRY CHECKS.—*  
3 *Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)) is*  
4 *amended—*

5            *(1) in subparagraph (A), in the matter preceding*  
6 *clause (i) by striking “foster or adoptive parent before*  
7 *the foster or adoptive parent may be finally approved*  
8 *for placement of a child regardless of whether foster*  
9 *care maintenance payments or adoption assistance*  
10 *payments” and inserting “foster parent, adoptive*  
11 *parent, or relative guardian before the foster parent,*  
12 *adoptive parent, or relative guardian may be finally*  
13 *approved for placement of a child regardless of wheth-*  
14 *er foster care maintenance payments, adoption assist-*  
15 *ance payments, or relative guardianship assistance*  
16 *payments”;* and

17            *(2) in subparagraph (B)(i) (as redesignated by*  
18 *section 152(b)(2) of Public Law 109–248), by striking*  
19 *“prospective foster or adoptive parent and on any*  
20 *other adult living in the home” and all that follows*  
21 *through “adoption assistance payments” and insert-*  
22 *ing “prospective foster parent, adoptive parent, or rel-*  
23 *ative guardian and on any other adult living in the*  
24 *home of such a prospective parent or relative guard-*  
25 *ian, and request any other State in which any such*



1        *placed in foster family homes receiving funds under*  
2        *part B or E of title IV.*

3            “(2) *DEMONSTRATION PROJECTS.*—*The term*  
4        *‘demonstration projects’ means the projects conducted*  
5        *under this section.*

6            “(3) *DIRECTLY FUNDED TRIBAL IV–E PRO-*  
7        *GRAM.*—*The term ‘directly funded tribal IV–E pro-*  
8        *gram’ means a program established under section*  
9        *479B by an Indian tribe, tribal organization, or trib-*  
10       *al consortium (as defined in subsection (a) of such*  
11       *section).*

12           “(4) *IMMEDIATE RELATIVE FOSTER PARENT.*—  
13        *The term ‘immediate relative foster parent’ means,*  
14        *with respect to a child in foster care, a foster parent*  
15        *of the child who is an adult sibling, grandparent,*  
16        *aunt, or uncle of the child.*

17           “(5) *STATE.*—*The term ‘State’ means any of the*  
18        *50 States or the District of Columbia with a State*  
19        *plan approved under section 471(a).*

20           “(b) *ESTABLISHMENT.*—*The Secretary shall establish*  
21        *not more than 10 demonstration projects to determine the*  
22        *extent to which flexibility in the application of certain li-*  
23        *censing standards to foster family homes of immediate rel-*  
24        *ative foster parents results in improved well-being and per-*  
25        *manency outcomes for children in foster care.*

1       “(c) *REQUIREMENTS.*—

2               “(1) *NUMBER OF PROJECTS.*—*Of the demonstra-*  
3       *tion projects conducted under this section, at least—*

4                       “(A) *2 projects shall be conducted in States*  
5       *with a large number of rural areas, as deter-*  
6       *mined by the Secretary;*

7                       “(B) *1 project shall be conducted in a State*  
8       *in which the State plan under this part is ad-*  
9       *ministered by a political subdivision of the*  
10       *State; and*

11                      “(C) *1 project shall be conducted by a di-*  
12       *rectly funded tribal IV–E program.*

13               “(2) *APPLICATION TO CERTAIN LICENSING*  
14       *STANDARDS.*—*For purposes of placing a child in fos-*  
15       *ter care in the home of an immediate relative foster*  
16       *parent of the child, and determining whether the*  
17       *home satisfies standards established by a State or di-*  
18       *rectly funded tribal IV–E program for purposes of*  
19       *complying with section 471(a)(10), a State or directly*  
20       *funded tribal IV–E program selected to conduct a*  
21       *demonstration project under this section may modify*  
22       *the extent to which the home is required to comply*  
23       *with any or all of the following standards in order to*  
24       *be a licensed foster family home for the child:*

1           “(A) *Standards relating to the number or*  
2           *size of bedrooms in the home, but only if the*  
3           *State or tribal program applies appropriate*  
4           *safeguards for age and gender.*

5           “(B) *Standards relating to the number of*  
6           *bathrooms in the home, but only if the State or*  
7           *tribal program applies appropriate safeguards*  
8           *for age and gender.*

9           “(C) *Standards relating to overall square*  
10          *footage of the home.*

11          “(3) *IMPLEMENTATION; DURATION.—The dem-*  
12          *onstrations projects shall—*

13                 “(A) *begin not later than 1 year after the*  
14                 *date of enactment of this section; and*

15                 “(B) *be conducted for a 2-year period.*

16          “(d) *REPORT.—Not later than 1 year after the date*  
17          *on which the projects are completed, the Secretary shall sub-*  
18          *mit to the Committee on Ways and Means of the House*  
19          *of Representatives and the Committee on Finance of the*  
20          *Senate a report that—*

21                 “(1) *evaluates, with respect to each State or di-*  
22                 *rectly funded tribal IV-E program conducting a*  
23                 *project, the impact of the projects on the well-being of*  
24                 *children in foster care and the extent to which the*  
25                 *projects result in improved permanency outcomes for*

1 *children in foster care, based on the past performance*  
 2 *of the State (or, in the case of a directly funded tribal*  
 3 *IV–E program, based on the past performance of each*  
 4 *State in which the program is conducted); and*

5 *“(2) includes such recommendations for adminis-*  
 6 *trative or legislative action as the Secretary deter-*  
 7 *mines appropriate.”.*

8 **SEC. 203. GRANTS TO CARRY OUT KINSHIP NAVIGATOR**  
 9 **PROGRAMS.**

10 *(a) IN GENERAL.—Part B of title IV of the Social Se-*  
 11 *curity Act (42 U.S.C. 620–629i) is amended by inserting*  
 12 *after section 426 the following:*

13 **“SEC. 427. GRANTS TO CARRY OUT KINSHIP NAVIGATOR**  
 14 **PROGRAMS.**

15 *“(a) PURPOSE.—The purposes of this section are—*

16 *“(1) to establish kinship navigator programs in*  
 17 *States, large metropolitan areas, and tribal areas to*  
 18 *assist kinship caregivers in navigating their way*  
 19 *through programs and services, to help the caregivers*  
 20 *learn about and obtain assistance to meet the needs*  
 21 *of the children they are raising and their own needs;*  
 22 *and*

23 *“(2) to promote effective partnerships among*  
 24 *public and private agencies, including community-*  
 25 *based and faith-based agencies, to help the agencies*

1 *described in this paragraph more effectively and effi-*  
2 *ciently serve kinship care families and address the*  
3 *fragmentation that creates barriers to meeting the*  
4 *needs of those families.*

5 *“(b) DEFINITIONS.—In this section:*

6 *“(1) ASSISTANT SECRETARY.—The term ‘Assist-*  
7 *ant Secretary’ means the Assistant Secretary for Chil-*  
8 *dren and Families of the Department of Health and*  
9 *Human Services.*

10 *“(2) LARGE METROPOLITAN AREA.—The term*  
11 *‘large metropolitan area’ means a metropolitan sta-*  
12 *tistical area, as defined by the Bureau of the Census,*  
13 *with a population of not less than 1,000,000.*

14 *“(3) METROPOLITAN AGENCY.—The term ‘metro-*  
15 *politan agency’ means an agency serving a large met-*  
16 *ropolitan area, or a county or political subdivision of*  
17 *a large metropolitan area.*

18 *“(4) TRIBAL AREA.—The term ‘tribal area’*  
19 *means the area served by a tribal organization.*

20 *“(5) TRIBAL ORGANIZATION.—The term ‘tribal*  
21 *organization’—*

22 *“(A) has the meaning given that term in*  
23 *section 479B(a); and*

24 *“(B) includes a consortium of tribal organi-*  
25 *zations described in subparagraph (A).*

1       “(c) *GRANTS.*—

2               “(1) *IN GENERAL.*—*The Assistant Secretary may*  
3       *make grants to eligible entities to pay for the Federal*  
4       *share (as determined by the Assistant Secretary) of*  
5       *the cost of carrying out kinship navigator programs.*

6               “(2) *ELIGIBLE ENTITIES.*—*To be eligible to re-*  
7       *ceive a grant under this section, an entity shall be a*  
8       *State agency, metropolitan agency, or tribal organi-*  
9       *zation, with experience in—*

10               “(A) *addressing the needs of kinship care-*  
11       *givers or children; and*

12               “(B) *connecting the children or caregivers*  
13       *with appropriate services and assistance, such as*  
14       *services and assistance provided by—*

15               “(i) *an area agency on aging under*  
16       *the Older Americans Act of 1965 (42 U.S.C.*  
17       *3001 et seq.); or*

18               “(ii) *an agency with jurisdiction over*  
19       *child welfare, income-based financial assist-*  
20       *ance, human services, or health matters, or*  
21       *a public entity that links family resource*  
22       *and support programs, for the State, large*  
23       *metropolitan area, or Indian tribe involved.*

24               “(3) *ALLOCATION OF GRANTS.*—*Of the funds*  
25       *made available for grants under this section for each*

1 *fiscal year, the Assistant Secretary shall use not less*  
2 *than 50 percent to make grants to State agencies.*

3 *“(d) NON-FEDERAL SHARE.—The non-Federal share*  
4 *of the cost may be provided in cash. Not more than 50 per-*  
5 *cent of the non-Federal share of the cost may be provided*  
6 *in kind, fairly evaluated, including plant, equipment, or*  
7 *services.*

8 *“(e) APPLICATIONS.—*

9 *“(1) IN GENERAL.—To be eligible to receive a*  
10 *grant under this section, an entity shall submit an*  
11 *application to the Assistant Secretary at such time,*  
12 *in such manner, and containing such information as*  
13 *the Assistant Secretary may require, including, at a*  
14 *minimum, the information described in paragraph*  
15 *(2).*

16 *“(2) CONTENTS.—The application shall include*  
17 *the following:*

18 *“(A) A description of the steps the entity*  
19 *will take during the first 6 months of the grant*  
20 *period to—*

21 *“(i) identify gaps in services for kin-*  
22 *ship care families in the State, large metro-*  
23 *politan area, or tribal area to be served and*  
24 *the specific activities that are needed to*  
25 *bridge the gaps;*

1                   “(ii) convene a group of partners to as-  
2                   sist in the operation of the kinship navi-  
3                   gator program funded through the grant;

4                   “(iii) utilize or develop relevant tech-  
5                   nology;

6                   “(iv) conduct outreach to kinship care-  
7                   givers about the kinship navigator program;  
8                   and

9                   “(v) develop a plan for reaching kin-  
10                  ship caregivers, ensuring that the caregivers  
11                  can access the kinship navigator program,  
12                  and following up to ensure that the care-  
13                  givers actually receive necessary services  
14                  and supports.

15                  “(B) An assurance that the entity will pro-  
16                  vide at least the core activities specified in sub-  
17                  paragraphs (A) and (B) of subsection (f)(2) for  
18                  kinship care families through the kinship navi-  
19                  gator program.

20                  “(C) A description of the activities the enti-  
21                  ty expects to offer over the grant period and the  
22                  entity’s initial projection of the number of chil-  
23                  dren and kinship caregivers likely to be served.

1           “(D) A description of how the entity will  
2 involve in the planning and operation of the kin-  
3 ship navigator program, on an ongoing basis—

4           “(i) kinship caregivers;

5           “(ii) youth raised or being raised by  
6 kinship caregivers;

7           “(iii) representatives of kinship care  
8 support organizations;

9           “(iv) relevant government agencies (in-  
10 cluding agencies with jurisdiction over mat-  
11 ters relating to aging, mental health, mental  
12 retardation or developmental disabilities,  
13 substance abuse treatment, criminal justice,  
14 health, youth services, human services, edu-  
15 cation, income-based financial assistance,  
16 child welfare, child custody, guardianship,  
17 adoption, or child support enforcement);

18           “(v)(I) not-for-profit service providers,  
19 including community-based and faith-based  
20 agencies; and

21           “(II) educational institutions; and

22           “(vi) other State or local agencies or  
23 systems that promote service coordination  
24 or provide information and referral services,  
25 including the entities that provide the 2-1-

1           1 or 3-1-1 information systems where ap-  
2           plicable.

3           “(E) A description of—

4                   “(i) how the entity will coordinate its  
5           activities with other State or local agencies  
6           or systems that promote service coordina-  
7           tion or provide information and referral  
8           services for children, families, or older indi-  
9           viduals, including the entities that provide  
10          the 2-1-1 or 3-1-1 information systems  
11          where applicable, so as to avoid duplication  
12          of services and the fragmentation of services  
13          that prevents kinship care families from  
14          getting the help the families need; and

15                   “(ii) how the entity will encourage re-  
16          gional cooperation among agencies, particu-  
17          larly agencies serving border communities  
18          that may cross jurisdictional lines, to en-  
19          sure that kinship care families will get help.

20           “(F) An assurance that the entity will re-  
21          port at least annually to the Assistant Secretary,  
22          in a manner prescribed by the Assistant Sec-  
23          retary, to ensure comparability of data across  
24          States, on—

1           “(i) activities established with the  
2 funds made available through grants made  
3 under this section;

4           “(ii) the numbers and ages of the chil-  
5 dren and caregivers assisted through the  
6 grants;

7           “(iii) the types of the assistance pro-  
8 vided;

9           “(iv) the outcomes achieved with the  
10 assistance; and

11           “(v) the barriers identified to meeting  
12 the needs of kinship care families and plans  
13 for addressing the barriers.

14           “(G) An assurance that the entity, not later  
15 than 3 months after the end of the final year of  
16 the grant period, will submit a final report to  
17 the Administration for Children and Families  
18 that describes—

19           “(i) the numbers and ages of the chil-  
20 dren and caregivers assisted through the  
21 grants;

22           “(ii) the types of assistance provided;

23           “(iii) the outcomes achieved with the  
24 assistance;

1                   “(iv) the barriers to meeting the needs  
2                   of kinship care families that were addressed  
3                   through the grants;

4                   “(v) the plans of the entity to continue  
5                   the kinship navigator program after the  
6                   grant period has ended;

7                   “(vi) lessons learned during the grant  
8                   period; and

9                   “(vii) recommendations about the con-  
10                  siderations that should be taken into ac-  
11                  count as the program carried out under this  
12                  section is expanded throughout the United  
13                  States.

14                 “(3) PREFERENCE.—In awarding grants under  
15                 this section, the Assistant Secretary shall give pref-  
16                 erence to agencies or organizations that can dem-  
17                 onstrate that the agencies and organizations will offer  
18                 the full array of activities described in subsection  
19                 (f)(2).

20                 “(f) USE OF GRANT FUNDS.—

21                 “(1) IN GENERAL.—An entity that receives a  
22                 grant under this title may use the funds made avail-  
23                 able through the grant directly, or through grants or  
24                 contracts with other public or private agencies, in-  
25                 cluding community-based or faith-based agencies, that

1       *have experience in connecting kinship caregivers with*  
2       *appropriate services and assistance.*

3               “(2) *USE OF FUNDS.*—*An entity that receives a*  
4       *grant under this title may use the funds made avail-*  
5       *able through the grant for activities that help to con-*  
6       *nect kinship caregivers with the services and assist-*  
7       *ance required to meet the needs of the children the*  
8       *caregivers are raising and their own needs, such as—*

9                       “(A) *establishing and maintaining informa-*  
10                      *tion and referral systems that—*

11                               “(i) *assist, through toll free access that*  
12                              *includes access to a live operator, kinship*  
13                             *caregivers, kinship care service providers,*  
14                            *kinship care support group facilitators, and*  
15                            *others to learn about and link to—*

16                                       “(I) *local kinship care service pro-*  
17                                  *viders, support groups, respite care*  
18                                *programs, and special services for in-*  
19                                *carcerated parents;*

20   “(II) *eligibility and enrollment*  
21                                      *information for Federal, State, and*  
22                                     *local benefits, such as—*

23   “(aa) *education (including*  
24    *preschool, elementary, secondary,*

1 *postsecondary, and special edu-*  
2 *cation);*

3 *“(bb) family support services,*  
4 *early intervention services, mental*  
5 *health services, substance abuse*  
6 *prevention and treatment services,*  
7 *services to address domestic vio-*  
8 *lence problems, services to address*  
9 *HIV or AIDS, legal services, child*  
10 *support, housing assistance, and*  
11 *child care;*

12 *“(cc) the disability insurance*  
13 *benefits program established under*  
14 *title II;*

15 *“(dd) the program of block*  
16 *grants to States for temporary as-*  
17 *sistance for needy families estab-*  
18 *lished under part A;*

19 *“(ee) the supplemental secu-*  
20 *rity income program established*  
21 *under title XVI;*

22 *“(ff) the medicaid program*  
23 *established under title XIX;*

1                   “(gg) the State children’s  
2 health insurance program estab-  
3 lished under title XXI;

4                   “(hh) the program of Federal  
5 payments for foster care and  
6 adoption assistance established  
7 under part E, including the pro-  
8 gram of relative guardianship as-  
9 sistance payments for children es-  
10 tablished under section 473(d);  
11 and

12                   “(ii) the supplemental nutri-  
13 tion assistance program estab-  
14 lished under the Food and Nutri-  
15 tion Act of 2008 (7 U.S.C. 2011 et  
16 seq.);

17                   “(III) relevant training to assist  
18 kinship caregivers in obtaining benefits  
19 and services and performing their  
20 caregiving activities; and

21                   “(IV) relevant legal assistance  
22 and help in obtaining access to legal  
23 services, including access to legal aid  
24 service providers and statewide elder  
25 law hotlines;

1           “(ii) provide outreach to kinship care  
2 families, in collaboration with schools, pedi-  
3 atric care clinics, kinship care organiza-  
4 tions, senior citizen centers, agencies with  
5 jurisdiction over child welfare or human  
6 services, and others to link the families to  
7 the kinship navigator program and to serv-  
8 ices and assistance; and

9           “(iii) establish, distribute, and regu-  
10 larly update kinship care resource guides,  
11 websites, or other relevant outreach mate-  
12 rials;

13           “(B) promoting partnerships between public  
14 and private agencies, including community-  
15 based and faith-based agencies—

16           “(i) to help the agencies described in  
17 this paragraph more effectively and effi-  
18 ciently meet the needs of kinship care fami-  
19 lies; and

20           “(ii) to familiarize the agencies about  
21 the special needs of kinship care families,  
22 policies that affect their eligibility for a  
23 range of education, health, mental health,  
24 social, child care, and child welfare services,  
25 income-based financial assistance, legal as-

1           *sistance, and other services and benefits,*  
2           *and the means for making policies more*  
3           *supportive of kinship care families;*

4           “(C) *establishing and supporting a kinship*  
5           *care ombudsman who has the authority to ac-*  
6           *tively intervene with State agency staff or service*  
7           *providers with which the State agency contracts*  
8           *to help ensure, through various appropriate*  
9           *means including working with individual fami-*  
10          *lies in an ongoing manner, that kinship care-*  
11          *givers get the services they need and for which*  
12          *they are eligible; and*

13          “(D) *supporting other activities that are de-*  
14          *signed to assist kinship caregivers in obtaining*  
15          *benefits, services, and activities designed to im-*  
16          *prove their caregiving.*

17          “(3) *LIMITATION.—Except as provided in para-*  
18          *graph (2)(D), the entity may not use any of the funds*  
19          *made available through the grant for direct services to*  
20          *children in kinship care families or to kinship care-*  
21          *givers.*

22          “(g) *ADMINISTRATION OF THE PROGRAM.—In admin-*  
23          *istering the program carried out under this section, the As-*  
24          *stant Secretary for Children and Families shall periodi-*

1 cally consult with the Assistant Secretary for Aging of the  
2 Department of Health and Human Services.

3 “(h) *RESERVATION.*—The Assistant Secretary may re-  
4 serve not more than 1 percent of the funds made available  
5 under this section for a fiscal year to provide technical as-  
6 sistance to the recipients of grants under this section related  
7 to the purposes of the grants.

8 “(i) *APPROPRIATION.*—Out of any money in the  
9 Treasury of the United States not otherwise appropriated,  
10 there are appropriated to the Secretary for purposes of mak-  
11 ing grants under this section, \$5,000,000 for each of fiscal  
12 years 2009 through 2013.”

13 (b) *CONFORMING AMENDMENT.*—Section 425 of such  
14 Act (42 U.S.C. 625) is amended by inserting “(other than  
15 sections 426, 427, and 429)” after “this subpart”.

16 **SEC. 204. AUTHORITY FOR COMPARISONS AND DISCLO-**  
17 **SURES OF INFORMATION IN THE FEDERAL**  
18 **PARENT LOCATOR SERVICE FOR CHILD WEL-**  
19 **FARE, FOSTER CARE, AND ADOPTION ASSIST-**  
20 **ANCE PROGRAM PURPOSES.**

21 Section 453(j)(3) of such Act (42 U.S.C. 653(j)(3)) is  
22 amended, in the matter preceding subparagraph (A), by in-  
23 serting “, part B, part E,” after “this part”.

1 **TITLE III—TRIBAL FOSTER CARE**  
 2 **AND ADOPTION ACCESS**

3 **SEC. 301. EQUITABLE ACCESS FOR FOSTER CARE AND**  
 4 **ADOPTION SERVICES FOR INDIAN CHILDREN**  
 5 **IN TRIBAL AREAS.**

6 (a) *AUTHORITY FOR DIRECT PAYMENT OF FEDERAL*  
 7 *TITLE IV–E FUNDS FOR PROGRAMS OPERATED BY INDIAN*  
 8 *TRIBAL ORGANIZATIONS.—*

9 (1) *IN GENERAL.—Part E of title IV of the So-*  
 10 *cial Security Act (42 U.S.C. 670 et seq.) is amended*  
 11 *by adding at the end the following:*

12 **“SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL OR-**  
 13 **GANIZATIONS.**

14 *“(a) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANI-*  
 15 *ZATIONS.—In this section, the terms ‘Indian tribe’ and*  
 16 *‘tribal organization’ have the meanings given those terms*  
 17 *in section 4 of the Indian Self-Determination and Edu-*  
 18 *cation Assistance Act (25 U.S.C. 450b).*

19 *“(b) AUTHORITY.—Except as otherwise provided in*  
 20 *this section, this part shall apply in the same manner as*  
 21 *this part applies to a State to an Indian tribe, tribal orga-*  
 22 *nization, or tribal consortium that elects to operate a pro-*  
 23 *gram under this part and has a plan approved by the Sec-*  
 24 *retary under section 471 in accordance with this section.*

25 *“(c) PLAN REQUIREMENTS.—*

1           “(1) *IN GENERAL.*—*An Indian tribe, tribal orga-*  
2           *nization, or tribal consortium that elects to operate a*  
3           *program under this part shall include with its plan*  
4           *submitted under section 471 the following:*

5                   “(A) *FINANCIAL MANAGEMENT.*—*Evidence*  
6                   *demonstrating that the tribe, organization, or*  
7                   *consortium has not had any uncorrected signifi-*  
8                   *cant or material audit exceptions under Federal*  
9                   *grants or contracts that directly relate to the ad-*  
10                   *ministration of social services for the 3-year pe-*  
11                   *riod prior to the date on which the plan is sub-*  
12                   *mitted.*

13                   “(B) *SERVICE AREAS AND POPULATIONS.*—  
14                   *For purposes of complying with section*  
15                   *471(a)(3), a description of the service area or*  
16                   *areas and populations to be served under the*  
17                   *plan and an assurance that the plan shall be in*  
18                   *effect in all service area or areas and for all pop-*  
19                   *ulations served by the tribe, organization, or con-*  
20                   *sortium.*

21                   “(C) *ELIGIBILITY.*—

22                           “(i) *IN GENERAL.*—*Subject to clause*  
23                           *(ii), an assurance that the plan will pro-*  
24                           *vide—*

1           “(I) foster care maintenance pay-  
2           ments under section 472 only on behalf  
3           of children who satisfy the eligibility  
4           requirements of subsection (a) of that  
5           section;

6           “(II) adoption assistance pay-  
7           ments under section 473 pursuant to  
8           adoption assistance agreements only on  
9           behalf of children who satisfy the eligi-  
10          bility requirements for such payments  
11          under that section; and

12          “(III) at the option of the tribe,  
13          organization, or consortium, relative  
14          guardianship assistance payments in  
15          accordance with section 473(d) only on  
16          behalf of children who meet the require-  
17          ments of paragraph (3)(B) of that sec-  
18          tion.

19          “(ii) *SATISFACTION OF FOSTER CARE*  
20          *ELIGIBILITY REQUIREMENTS.*—For purposes  
21          of determining whether a child whose place-  
22          ment and care are the responsibility of an  
23          Indian tribe, tribal organization, or tribal  
24          consortium with a plan approved under sec-  
25          tion 471 in accordance with this section

1                   *satisfies the requirements of section 472(a),*  
2                   *the following shall apply:*

3                   “(I) *USE OF AFFIDAVITS, ETC.—*

4                   *Only with respect to the first 12*  
5                   *months for which such plan is in effect,*  
6                   *the requirement in paragraph (1) of*  
7                   *section 472(a) shall not be interpreted*  
8                   *so as to prohibit the use of affidavits or*  
9                   *nunc pro tunc orders as verification*  
10                  *documents in support of the reasonable*  
11                  *efforts and contrary to the welfare of*  
12                  *the child judicial determinations re-*  
13                  *quired under that paragraph.*

14                  “(II) *AFDC ELIGIBILITY RE-*

15                  *QUIREMENT.—The State plan ap-*  
16                  *proved under section 402 (as in effect*  
17                  *on July 16, 1996) of the State in*  
18                  *which the child resides at the time of*  
19                  *removal from the home shall apply to*  
20                  *the determination of whether the child*  
21                  *satisfies paragraph (3) of section*  
22                  *472(a).*

23                  “(D) *OPTION TO CLAIM IN-KIND EXPENDI-*  
24                  *TURES FROM THIRD-PARTY SOURCES FOR NON-*  
25                  *FEDERAL SHARE OF ADMINISTRATIVE AND*

1            *TRAINING COSTS DURING INITIAL IMPLEMENTA-*  
2            *TION PERIOD.—Only for fiscal year quarters be-*  
3            *ginning after September 30, 2009, and before Oc-*  
4            *tober 1, 2014, a list of the in-kind expenditures*  
5            *(which shall be fairly evaluated, and may in-*  
6            *clude plants, equipment, administration, or serv-*  
7            *ices) and the third-party sources of such expendi-*  
8            *tures that the tribe, organization, or consortium*  
9            *may claim as part of the non-Federal share of*  
10           *administrative or training expenditures attrib-*  
11           *utable to such quarters for purposes of receiving*  
12           *payments under section 474(a)(3). The Secretary*  
13           *shall permit a tribe, organization, or consortium*  
14           *to claim in-kind expenditures from third party*  
15           *sources for such purposes during such quarters*  
16           *subject to the following:*

17                    *“(i) NO EFFECT ON AUTHORITY FOR*  
18                    *TRIBES, ORGANIZATIONS, OR CONSORTIA TO*  
19                    *CLAIM IN-KIND EXPENDITURES TO THE*  
20                    *SAME EXTENT STATES MAY CLAIM IN-KIND*  
21                    *EXPENDITURES.—Nothing in this subpara-*  
22                    *graph shall be construed as preventing a*  
23                    *tribe, organization, or consortium from*  
24                    *claiming any in-kind expenditures for pur-*  
25                    *poses of receiving payments under section*

1           474(a) that a State with a plan approved  
2           under section 471(a) could claim for such  
3           purposes.

4           “(ii) *FISCAL YEAR 2010 OR 2011.*—

5                   “(I) *EXPENDITURES OTHER THAN*  
6                   *FOR TRAINING.*—With respect to  
7                   amounts expended during a fiscal year  
8                   quarter beginning after September 30,  
9                   2009, and before October 1, 2011, for  
10                  which the tribe, organization, or con-  
11                  sortium is eligible for payments under  
12                  subparagraph (C), (D), or (E) of sec-  
13                  tion 474(a)(3), not more than 25 per-  
14                  cent of such amounts may consist of  
15                  in-kind expenditures from third-party  
16                  sources specified in the list required  
17                  under this subparagraph to be sub-  
18                  mitted with the plan.

19                  “(II) *TRAINING EXPENDITURES.*—

20                  With respect to amounts expended dur-  
21                  ing a fiscal year quarter beginning  
22                  after September 30, 2009, and before  
23                  October 1, 2011, for which the tribe,  
24                  organization, or consortium is eligible  
25                  for payments under subparagraph (A)

1 or (B) of section 474(a)(3), not more  
2 than 12 percent of such amounts may  
3 consist of in-kind expenditures from  
4 third-party sources that are specified  
5 in such list and described in subclause  
6 (III).

7 “(III) SOURCES DESCRIBED.—  
8 For purposes of subclause (II), the  
9 sources described in this subclause are  
10 the following:

11 “(aa) A State or local gov-  
12 ernment.

13 “(bb) An Indian tribe, tribal  
14 organization, or tribal consortium  
15 other than the tribe, organization,  
16 or consortium submitting the  
17 plan.

18 “(cc) A public institution of  
19 higher education.

20 “(dd) A Tribal College or  
21 University (as defined in section  
22 316 of the Higher Education Act  
23 of 1965 (20 U.S.C. 1059c)).

24 “(ee) A private charitable or-  
25 ganization.

1                   “(iii) *FISCAL YEAR 2012, 2013, OR*  
2                   *2014.—*

3                   “(I) *IN GENERAL.—Except as pro-*  
4                   *vided in subclause (II) and clause (v),*  
5                   *with respect to amounts expended dur-*  
6                   *ing any fiscal year quarter beginning*  
7                   *after September 30, 2011, and before*  
8                   *October 1, 2014, for which the tribe,*  
9                   *organization, or consortium is eligible*  
10                  *for payments under any subparagraph*  
11                  *of section 474(a)(3), the only in-kind*  
12                  *expenditures from third-party sources*  
13                  *that may be claimed by the tribe, orga-*  
14                  *nization, or consortium for purposes of*  
15                  *determining the non-Federal share of*  
16                  *such expenditures (without regard to*  
17                  *whether the expenditures are specified*  
18                  *on the list required under this sub-*  
19                  *paragraph to be submitted with the*  
20                  *plan) are in-kind expenditures that are*  
21                  *specified in regulations promulgated*  
22                  *by the Secretary under section*  
23                  *301(e)(2) of the Improved Adoption In-*  
24                  *centives and Relative Guardianship*  
25                  *Support Act of 2008 and are from an*

1 applicable third-party source specified  
2 in such regulations, and do not exceed  
3 the applicable percentage for claiming  
4 such in-kind expenditures specified in  
5 the regulations.

6 “(II) *TRANSITION PERIOD FOR*  
7 *EARLY APPROVED TRIBES, ORGANIZA-*  
8 *TIONS, OR CONSORTIA.*—Subject to  
9 clause (v), if the tribe, organization, or  
10 consortium is an early approved tribe,  
11 organization, or consortium (as defined  
12 in subclause (III)), the Secretary shall  
13 not require the tribe, organization, or  
14 consortium to comply with such regu-  
15 lations before October 1, 2013. Until  
16 the earlier of the date such tribe, orga-  
17 nization, or consortium comes into  
18 compliance with such regulations or  
19 October 1, 2013, the limitations on the  
20 claiming of in-kind expenditures from  
21 third-party sources under clause (ii)  
22 shall continue to apply to such tribe,  
23 organization, or consortium (without  
24 regard to fiscal limitation) for pur-  
25 poses of determining the non-Federal

1           *share of amounts expended by the tribe,*  
2           *organization, or consortium during*  
3           *any fiscal year quarter that begins*  
4           *after September 30, 2011, and before*  
5           *such date of compliance or October 1,*  
6           *2013, whichever is earlier.*

7           “(III) *DEFINITION OF EARLY AP-*  
8           *PROVED TRIBE, ORGANIZATION, OR*  
9           *CONSORTIUM.—For purposes of sub-*  
10          *clause (II), the term ‘early approved*  
11          *tribe, organization, or consortium’*  
12          *means an Indian tribe, tribal organi-*  
13          *zation, or tribal consortium that had a*  
14          *plan approved under section 471 in ac-*  
15          *cordance with this section for any*  
16          *quarter of fiscal year 2010 or 2011.*

17          “(iv) *FISCAL YEAR 2015 AND THERE-*  
18          *AFTER.—Subject to clause (v), with respect*  
19          *to amounts expended during any fiscal year*  
20          *quarter beginning after September 30, 2014,*  
21          *for which the tribe, organization, or consor-*  
22          *tium is eligible for payments under any*  
23          *subparagraph of section 474(a)(3), in-kind*  
24          *expenditures from third-party sources may*  
25          *be claimed for purposes of determining the*

1           *non-Federal share of expenditures under*  
2           *any subparagraph of section 474(a)(3) only*  
3           *in accordance with the regulations promul-*  
4           *gated by the Secretary under section*  
5           *301(e)(2) of the Improved Adoption Incen-*  
6           *tives and Relative Guardianship Support*  
7           *Act of 2008.*

8           “(v) *CONTINGENCY RULE.—If, at the*  
9           *time expenditures are made for a fiscal year*  
10           *quarter beginning after September 30, 2011,*  
11           *and before October 1, 2014, for which a*  
12           *tribe, organization, or consortium may re-*  
13           *ceive payments for under section 474(a)(3),*  
14           *no regulations required to be promulgated*  
15           *under section 301(e)(2) of the Improved*  
16           *Adoption Incentives and Relative Guard-*  
17           *ianship Support Act of 2008 are in effect,*  
18           *and no legislation has been enacted speci-*  
19           *fying otherwise—*

20           “(I) *in the case of any quarter of*  
21           *fiscal year 2012, 2013, or 2014, the*  
22           *limitations on claiming in-kind ex-*  
23           *penditures from third-party sources*  
24           *under clause (ii) shall apply (without*  
25           *regard to fiscal limitation) for pur-*

1                    *poses of determining the non-Federal*  
2                    *share of such expenditures; and*

3                    *“(II) in the case of any quarter of*  
4                    *fiscal year 2015 or any fiscal year*  
5                    *thereafter, no tribe, organization, or*  
6                    *consortium may claim in-kind expend-*  
7                    *itures from third-party sources for*  
8                    *purposes of determining the non-Fed-*  
9                    *eral share of such expenditures if a*  
10                   *State with a plan approved under sec-*  
11                   *tion 471(a) could not claim in-kind ex-*  
12                   *penditures from third-party sources for*  
13                   *such purposes.*

14                   *“(2) CLARIFICATION OF TRIBAL AUTHORITY TO*  
15                   *ESTABLISH STANDARDS FOR TRIBAL FOSTER FAMILY*  
16                   *HOMES AND TRIBAL CHILD CARE INSTITUTIONS.—For*  
17                   *purposes of complying with section 471(a)(10), an In-*  
18                   *dian tribe, tribal organization, or tribal consortium*  
19                   *shall establish and maintain a tribal authority or au-*  
20                   *thorities which shall be responsible for establishing*  
21                   *and maintaining tribal standards for tribal foster*  
22                   *family homes and tribal child care institutions.*

23                   *“(3) CONSORTIUM.—The participating Indian*  
24                   *tribes or tribal organizations of a tribal consortium*

1        *may develop and submit a single plan under section*  
2        *471 that meets the requirements of this section.*

3        “(d) *DETERMINATION OF FEDERAL MEDICAL ASSIST-*  
4        *ANCE PERCENTAGE FOR FOSTER CARE MAINTENANCE AND*  
5        *ADOPTION ASSISTANCE PAYMENTS.—*

6                “(1) *PER CAPITA INCOME.—For purposes of de-*  
7        *termining the Federal medical assistance percentage*  
8        *applicable to an Indian tribe, a tribal organization,*  
9        *or a tribal consortium under paragraphs (1), (2), and*  
10        *(5) of section 474(a), the calculation of the per capita*  
11        *income of the Indian tribe, tribal organization, or*  
12        *tribal consortium shall be based upon the service pop-*  
13        *ulation of the Indian tribe, tribal organization, or*  
14        *tribal consortium, except that in no case shall an In-*  
15        *Indian tribe, a tribal organization, or a tribal consor-*  
16        *tium receive less than the Federal medical assistance*  
17        *percentage for any State in which the tribe, organiza-*  
18        *tion, or consortium is located.*

19                “(2) *CONSIDERATION OF OTHER INFORMATION.—*  
20        *Before making a calculation under paragraph (1), the*  
21        *Secretary shall consider any information submitted*  
22        *by an Indian tribe, a tribal organization, or a tribal*  
23        *consortium that the Indian tribe, tribal organization,*  
24        *or tribal consortium considers relevant to making the*

1        *calculation of the per capita income of the Indian*  
 2        *tribe, tribal organization, or tribal consortium.*

3        “(e) *NONAPPLICATION TO COOPERATIVE AGREEMENTS*  
 4 *AND CONTRACTS.—Any cooperative agreement or contract*  
 5 *entered into between an Indian tribe, a tribal organization,*  
 6 *or a tribal consortium and a State for the administration*  
 7 *or payment of funds under this part that is in effect as*  
 8 *of the date of enactment of this section shall remain in full*  
 9 *force and effect, subject to the right of either party to the*  
 10 *agreement or contract to revoke or modify the agreement*  
 11 *or contract pursuant to the terms of the agreement or con-*  
 12 *tract. Nothing in this section shall be construed as affecting*  
 13 *the authority for an Indian tribe, a tribal organization, or*  
 14 *a tribal consortium and a State to enter into a cooperative*  
 15 *agreement or contract for the administration or payment*  
 16 *of funds under this part.*

17        “(f) *JOHN H. CHAFEE FOSTER CARE INDEPENDENCE*  
 18 *PROGRAM.—Except as provided in section 477(j), sub-*  
 19 *section (b) of this section shall not apply with respect to*  
 20 *the John H. Chafee Foster Care Independence Program es-*  
 21 *tablished under section 477 (or with respect to payments*  
 22 *made under section 474(a)(4) or grants made under section*  
 23 *474(e)).*

24        “(g) *RULE OF CONSTRUCTION.—Nothing in this sec-*  
 25 *tion shall be construed as affecting the application of sub-*

1 *section (h) of section 472 to a child on whose behalf pay-*  
 2 *ments are paid under such section, or the application of*  
 3 *subsection (b) of section 473 to a child on whose behalf pay-*  
 4 *ments are made under that section pursuant to an adoption*  
 5 *assistance agreement or a relative guardianship assistance*  
 6 *agreement, by an Indian tribe, tribal organization, or tribal*  
 7 *consortium that elects to operate a foster care and adoption*  
 8 *assistance program in accordance with this section.”.*

9           (2)       *CONFORMING        AMENDMENTS.—Section*  
 10        *472(a)(2)(B) of such Act (42 U.S.C. 672(a)(2)(B)) is*  
 11        *amended—*

12                    (A) *in clause (i), by striking “or” at the*  
 13        *end;*

14                    (B) *in clause (ii), by striking “and” at the*  
 15        *end and inserting “or”; and*

16                    (C) *by adding at the end the following:*

17                            *“(iii) an Indian tribe or a tribal orga-*  
 18        *nization (as defined in section 479B(a)) or*  
 19        *a tribal consortium that has a plan ap-*  
 20        *proved under section 471 in accordance*  
 21        *with section 479B; and”.*

22        (b) *AUTHORITY TO RECEIVE PORTION OF STATE AL-*  
 23        *LOTMENT AS PART OF AN AGREEMENT TO OPERATE THE*  
 24        *JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PRO-*

1 *GRAM.—Section 477 of such Act (42 U.S.C. 677) is amend-*  
2 *ed by adding at the end the following new subsection:*

3       “(j) *AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGA-*  
4 *NIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN AL-*  
5 *LOTMENT.—*

6               “(1) *IN GENERAL.—An Indian tribe, tribal orga-*  
7 *nization, or tribal consortium with a plan approved*  
8 *under section 479B, or which is receiving funding to*  
9 *provide foster care under this part pursuant to a co-*  
10 *operative agreement or contract with a State, may*  
11 *apply for an allotment out of any funds authorized*  
12 *by paragraph (1) or (2) (or both) of subsection (h).*

13               “(2) *APPLICATION.—A tribe, organization, or*  
14 *consortium desiring an allotment under paragraph*  
15 *(1) shall submit an application to the Secretary to di-*  
16 *rectly receive such allotment that includes a plan*  
17 *which—*

18                       “(A) *satisfies such requirements of para-*  
19 *graphs (2) and (3) of subsection (b) as the Sec-*  
20 *retary determines are appropriate;*

21                       “(B) *contains a description of the tribe’s,*  
22 *organization’s, or consortium’s consultation*  
23 *process regarding the programs to be carried out*  
24 *under the plan with each State for which a por-*  
25 *tion of an allotment under subsection (c) would*

1           *be redirected to the tribe, organization, or con-*  
2           *sortium; and*

3           “(C) *contains an explanation of the results*  
4           *of such consultation, particularly with respect*  
5           *to—*

6                   “(i) *determining the eligibility for ben-*  
7                   *efits and services of Indian children to be*  
8                   *served under the programs to be carried out*  
9                   *under the plan; and*

10                   “(ii) *the process for consulting with the*  
11                   *State in order to ensure the continuity of*  
12                   *benefits and services for such children who*  
13                   *will transition from receiving benefits and*  
14                   *services under programs carried out under*  
15                   *a State plan under subsection (b)(2) to re-*  
16                   *ceiving benefits and services under pro-*  
17                   *grams carried out under a plan under this*  
18                   *subsection.*

19           “(3) *PAYMENTS.—The Secretary shall pay an*  
20           *Indian tribe, tribal organization, or tribal consortium*  
21           *with an application and plan approved under this*  
22           *subsection from the allotment determined for the tribe,*  
23           *organization, or consortium under paragraph (4) in*  
24           *the same manner as is provided in section 474(a)(4)*  
25           *(and, where requested, and if funds are appropriated,*

1 *section 474(e)) with respect to a State, or in such*  
2 *other manner as is determined appropriate by the*  
3 *Secretary, except that in no case shall an Indian*  
4 *tribe, a tribal organization, or a tribal consortium re-*  
5 *ceive a lesser proportion of such funds than a State*  
6 *is authorized to receive under those sections.*

7       “(4) *ALLOTMENT.—From the amounts allotted to*  
8 *a State under subsection (c) for a fiscal year, the Sec-*  
9 *retary shall allot to each Indian tribe, tribal organi-*  
10 *zation, or tribal consortium with an application and*  
11 *plan approved under this subsection for that fiscal*  
12 *year an amount equal to the tribal foster care ratio*  
13 *determined under paragraph (5) for the tribe, organi-*  
14 *zation, or consortium multiplied by the allotment*  
15 *amount of the State within which the tribe, organiza-*  
16 *tion, or consortium is located. The allotment deter-*  
17 *mined under this paragraph is deemed to be a part*  
18 *of the allotment determined under section 477(c) for*  
19 *the State in which the Indian tribal organization, or*  
20 *tribal consortium is located.*

21       “(5) *TRIBAL FOSTER CARE RATIO.—For pur-*  
22 *poses of paragraph (4), the tribal foster care ratio*  
23 *means, with respect to an Indian tribe, tribal organi-*  
24 *zation, or tribal consortium, the ratio of—*

1           “(A) the number of children in foster care  
2 under the responsibility of the Indian tribe, trib-  
3 al organization, or tribal consortium (either di-  
4 rectly or under supervision of the State), in the  
5 most recent fiscal year for which the information  
6 is available; to

7           “(B) the sum of—

8           “(i) the total number of children in  
9 foster care under the responsibility of the  
10 State within which the Indian tribe, tribal  
11 organization, or tribal consortium is lo-  
12 cated; and

13           “(ii) the total number of children in  
14 foster care under the responsibility of all  
15 Indian tribes, tribal organizations, or tribal  
16 consortia in the State (either directly or  
17 under supervision of the State) that have a  
18 plan approved under this subsection.”.

19       (c) *STATE AND TRIBAL COOPERATION.*—

20           (1) *IN GENERAL.*—Section 471(a) of the Social  
21 Security Act (42 U.S.C. 671(a)), as amended by sec-  
22 tion 201(f)(1)(B), is amended—

23           (A) by striking “and” at the end of para-  
24 graph (27);

1           (B) by striking the period at the end of  
2           paragraph (28) and inserting “; and”; and

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

4           “(29) provides that the State will negotiate in  
5           good faith with any Indian tribe, tribal organization  
6           or tribal consortium in the State that requests to de-  
7           velop an agreement with the State to provide for pay-  
8           ments under this part on behalf of Indian children  
9           who are under the authority of the tribe, organiza-  
10          tion, or consortium, including foster care mainte-  
11          nance payments on behalf of children who are place  
12          in tribally licensed foster family homes, adoption as-  
13          sistance payments, and, if the State has elected to  
14          provide such payments, relative guardianship assist-  
15          ance payments, and tribal access to resources for ad-  
16          ministration, training, and data collection under this  
17          part.”.

18           (2) *CHAFEE PROGRAM CONFORMING AMEND-*  
19          *MENT.—Section 477(b)(3)(G) of such Act (42 U.S.C.*  
20          *677(b)(3)(G)) is amended—*

21           (A) by striking “and that” and inserting  
22           “that”; and

23           (B) by striking the period at the end and  
24           inserting “; and that the State will negotiate in  
25           good faith with any Indian tribe, tribal organi-

1            *zation, or tribal consortium in the State that*  
2            *does not receive an allotment under subsection*  
3            *(j)(4) for a fiscal year and that requests to de-*  
4            *velop an agreement with the State to administer,*  
5            *supervise, or oversee the programs to be carried*  
6            *out under the plan with respect to the Indian*  
7            *children who are eligible for such programs and*  
8            *who are under the authority of the tribe, organi-*  
9            *zation, or consortium and to receive from the*  
10           *State an appropriate portion of the State allot-*  
11           *ment under subsection (c) for the cost of such ad-*  
12           *ministration, supervision, or oversight.”.*

13           *(d) RULES OF CONSTRUCTION.—Nothing in the*  
14           *amendments made by this section shall be construed as—*

15                    *(1) authorization to terminate funding to any*  
16                    *Indian or Indian family receiving foster care mainte-*  
17                    *nance payments or adoption assistance payments on*  
18                    *the date of enactment of this Act on behalf of a child*  
19                    *and for which the State receives Federal matching*  
20                    *payments under paragraph (1) or (2) of section*  
21                    *474(a) of the Social Security Act (42 U.S.C. 674(a)),*  
22                    *regardless of whether a cooperative agreement or con-*  
23                    *tract between the State and an Indian tribe, tribal*  
24                    *organization, or tribal consortium is in effect on such*  
25                    *date or an Indian tribe, tribal organization, or tribal*

1       *consortium elects subsequent to such date to operate a*  
2       *program under section 479B of the Social Security*  
3       *Act (as added by subsection (a)); or*

4           (2) *affecting the responsibility of a State—*

5               (A) *as part of the plan approved under sec-*  
6               *tion 471 of the Social Security Act (42 U.S.C.*  
7               *671), to provide foster care maintenance pay-*  
8               *ments, adoption assistance payments, and if the*  
9               *State elects, relative guardianship assistance*  
10              *payments, for Indian children who are eligible*  
11              *for such payments and who are not otherwise*  
12              *being served by an Indian tribe, tribal organiza-*  
13              *tion, or tribal consortium pursuant to a pro-*  
14              *gram under such section 479B or a cooperative*  
15              *agreement or contract entered into between an*  
16              *Indian tribe, a tribal organization, or a tribal*  
17              *consortium and a State for the administration*  
18              *or payment of funds under part E of title IV of*  
19              *such Act; or*

20              (B) *as part of the plan approved under sec-*  
21              *tion 477 of such Act (42 U.S.C. 677) to admin-*  
22              *ister, supervise, or oversee programs carried out*  
23              *under that plan on behalf of Indian children who*  
24              *are eligible for such programs if such children*  
25              *are not otherwise being served by an Indian*

1           *tribe, tribal organization, or tribal consortium*  
2           *pursuant to an approved plan under section*  
3           *477(j) or a cooperative agreement or contract en-*  
4           *tered into under section 477(b)(3)(G) of such*  
5           *Act.*

6           *(e) REGULATIONS.—*

7           *(1) IN GENERAL.—Except as provided in para-*  
8           *graph (2), not later than 1 year after the date of en-*  
9           *actment of this section, the Secretary of Health and*  
10           *Human Services, in consultation with Indian tribes,*  
11           *tribal organizations, tribal consortia, and affected*  
12           *States, shall promulgate interim final regulations to*  
13           *carry out this section and the amendments made by*  
14           *this section. Such regulations shall include procedures*  
15           *to ensure that a transfer of responsibility for the*  
16           *placement and care of a child under a State plan ap-*  
17           *proved under section 471 of the Social Security Act*  
18           *to a tribal plan approved under section 471 of such*  
19           *Act in accordance with section 479B of such Act (as*  
20           *added by subsection (a)(1)) or to an Indian tribe, a*  
21           *tribal organization, or a tribal consortium that has*  
22           *entered into a cooperative agreement or contract with*  
23           *a State for the administration or payment of funds*  
24           *under part E of title IV of such Act does not affect*  
25           *the eligibility of, provision of services for, or the mak-*

1 *ing of payments on behalf of, such children under*  
2 *part E of title IV of such Act, or the eligibility of such*  
3 *children for medical assistance under title XIX of*  
4 *such Act.*

5 (2) *IN-KIND EXPENDITURES FROM THIRD-PARTY*  
6 *SOURCES FOR PURPOSES OF DETERMINING NON-FED-*  
7 *ERAL SHARE OF ADMINISTRATIVE AND TRAINING EX-*  
8 *PENDITURES.—*

9 (A) *IN GENERAL.—Subject to subparagraph*  
10 *(B), not later than September 30, 2011, the Sec-*  
11 *retary of Health and Human Services, in con-*  
12 *sultation with Indian tribes, tribal organiza-*  
13 *tions, and tribal consortia, shall promulgate in-*  
14 *terim final regulations specifying the types of in-*  
15 *kind expenditures, including plants, equipment,*  
16 *administration, and services, and the third-*  
17 *party sources for such in-kind expenditures*  
18 *which may be claimed by tribes, organizations,*  
19 *and consortia with plans approved under section*  
20 *471 of the Social Security Act in accordance*  
21 *with section 479B of such Act, up to such per-*  
22 *centages as the Secretary, in such consultation*  
23 *shall specify in such regulations, for purposes of*  
24 *determining the non-Federal share of adminis-*  
25 *trative and training expenditures for which the*

1        *tribes, organizations, and consortia may receive*  
2        *payments for under any subparagraph of section*  
3        *474(a)(3) of such Act.*

4            *(B) EFFECTIVE DATE.—In no event shall*  
5        *the regulations required to be promulgated under*  
6        *subparagraph (A) take effect prior to October 1,*  
7        *2011.*

8            *(C) SENSE OF THE SENATE.—It is the sense*  
9        *of the Senate that if the Secretary of Health and*  
10       *Human Services fails to publish in the Federal*  
11       *Register the regulations required under subpara-*  
12       *graph (A), Congress should enact legislation*  
13       *specifying the types of in-kind expenditures and*  
14       *the third-party sources for such in-kind expendi-*  
15       *tures which may be claimed by tribes, organiza-*  
16       *tions, and consortia with plans approved under*  
17       *section 471 of the Social Security Act in accord-*  
18       *ance with section 479B of such Act, up to spe-*  
19       *cific percentages, for purposes of determining the*  
20       *non-Federal share of administrative and train-*  
21       *ing expenditures for which the tribes, organiza-*  
22       *tions, and consortia may receive payments for*  
23       *under any subparagraph of section 474(a)(3) of*  
24       *such Act.*

1           (f) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall take effect on October 1, 2009, without regard*  
 3 *to whether the regulations required under subsection (e)(1)*  
 4 *have been promulgated by such date.*

5 **SEC. 302. GRANTS TO STATES THAT SUCCESSFULLY COL-**  
 6                   **LABORATE WITH AND SUPPORT TRIBES TO**  
 7                   **IMPROVE PERMANENCY OUTCOMES FOR IN-**  
 8                   **DIAN CHILDREN.**

9           *Part E of title IV of the Social Security Act (42 U.S.C.*  
 10 *670 et seq.), as amended by section 301(a)(1), is amended*  
 11 *by adding at the end the following:*

12 **“SEC. 479C. GRANTS TO STATES THAT SUCCESSFULLY COL-**  
 13                   **LABORATE WITH AND SUPPORT TRIBES TO**  
 14                   **IMPROVE PERMANENCY OUTCOMES FOR IN-**  
 15                   **DIAN CHILDREN.**

16           “(a) *DEFINITIONS.*—*In this section:*

17                   “(1) *GRANT YEAR.*—*The term ‘grant year’ means*  
 18 *each of fiscal years 2010, 2011, 2012, 2013, and 2014.*

19                   “(2) *INDIAN CHILDREN.*—*The term ‘Indian chil-*  
 20 *dren’ means children who are members of, enrolled in,*  
 21 *or affiliated with, or eligible for membership, enroll-*  
 22 *ment, or affiliation with, an Indian tribe.*

23                   “(3) *INDIAN TRIBE, TRIBAL ORGANIZATION,*  
 24 *TRIBAL CONSORTIUM.*—*The terms ‘Indian tribe, tribal*

1       organization, and tribal consortium’ have the mean-  
2       ing given those terms in section 479B(a).

3               “(4) STATE.—The term ‘State’ means any of the  
4       50 States or the District of Columbia with State  
5       plans approved under part B and this part that elect  
6       to apply for a grant under this section.

7               “(5) SUCCESSFUL COLLABORATION AND TRIBAL  
8       SUPPORT STATE.—The term ‘Successful Collaboration  
9       and Tribal Support State’ means, with respect to any  
10      grant year, a State that the Secretary determines has  
11      demonstrated significant evidence of successful col-  
12      laboration and Tribal support (as determined under  
13      subsection (c)) for the fiscal year preceding the grant  
14      year.

15              “(b) GRANTS.—The Secretary shall make a grant pur-  
16      suant to this paragraph to each State for each grant year  
17      for which the Secretary determines that the State is a Suc-  
18      cessful Collaboration and Tribal Support State.

19              “(c) SIGNIFICANT EVIDENCE OF SUCCESSFUL COL-  
20      LABORATION AND TRIBAL SUPPORT.—

21              “(1) IN GENERAL.—For purposes of subsection  
22      (a)(5), significant evidence of successful collaboration  
23      and Tribal support shall be demonstrated through  
24      submission by a State of the following evidence to the  
25      Secretary:

1           “(A) Evidence of collaboration by the State  
2 with an Indian tribe, tribal organization, or  
3 tribal consortium to plan for and ensure access  
4 to services and supports for Indian children and  
5 their families which includes, at a minimum,  
6 evidence of the measures and activities required  
7 under sections 422(b)(9), 471(a)(29), and  
8 477(b)(3)(G).

9           “(B) Evidence that the State has obtained  
10 from the Secretary, or is engaged in accessing  
11 (including through the National Child Welfare  
12 Resource Center for Tribes established under sec-  
13 tion 479D), technical assistance to improve serv-  
14 ices and permanency outcomes for Indian chil-  
15 dren and their families, such as through im-  
16 proved identification of Indian children, in-  
17 creased recruitment of Indian foster family  
18 homes, and, consistent with the requirements of  
19 the Indian Child Welfare Act of 1978 (25 U.S.C.  
20 1901 et seq.), improved rates of family reunifica-  
21 tion, legal or relative guardianships, or adoptive  
22 homes.

23           “(C) Evidence of improved outcomes for In-  
24 dian children and their families and such other  
25 data as the Secretary may require to verify that

1           *an improvement in outcomes appropriate for In-*  
2           *Indian children and their families has been*  
3           *achieved.*

4           “(2) *FORM AND MANNER.*—*The Secretary shall*  
5           *establish the form and manner in which a State that*  
6           *elects to apply for a grant under this section shall*  
7           *submit the evidence described in each subparagraph of*  
8           *paragraph (1). To the extent practicable, the require-*  
9           *ments for such evidence shall be consistent with data*  
10          *requirements under the Indian Child Welfare Act of*  
11          *1978 (25 U.S.C. 1901 et seq.).*

12          “(d) *AMOUNT OF GRANT.*—*The amount of the grant*  
13          *payable under this section to a Successful Collaboration and*  
14          *Tribal Support State for a grant year is equal to the prod-*  
15          *uct of—*

16                 “(1) *the amount appropriated under subsection*  
17                 *(e) for that year; and*

18                 “(2) *the ratio of—*

19                         “(A) *the number of Indian children in the*  
20                         *State (as determined for purposes of making*  
21                         *payments under section 428; to*

22                         “(B) *the sum of the number of such children*  
23                         *determined for all Successful Collaboration and*  
24                         *Tribal Support States for the grant year.*

1       “(e) *APPROPRIATION.*—Out of any money in the  
 2 Treasury of the United States not otherwise appropriated,  
 3 there are appropriated to the Secretary for purposes of mak-  
 4 ing payments under this section, \$5,000,000 for each of fis-  
 5 cal years 2010 through 2014.”.

6 **SEC. 303. ESTABLISHMENT OF NATIONAL CHILD WELFARE**  
 7 **RESOURCE CENTER FOR TRIBES.**

8       Part E of title IV of the Social Security Act (42 U.S.C.  
 9 670 et seq.), as amended by section 302, is amended by add-  
 10 ing at the end the following:

11 **“SEC. 479D. NATIONAL CHILD WELFARE RESOURCE CENTER**  
 12 **FOR TRIBES.**

13       “(a) *ESTABLISHMENT.*—The Secretary shall establish  
 14 a National Child Welfare Resource Center for Tribes that  
 15 is—

16               “(1) specifically and exclusively dedicated to  
 17 meeting the needs of Indian tribes, tribal organiza-  
 18 tions, (as defined in section 479B(a)), tribal con-  
 19 sortia, and States in improving services and perma-  
 20 nency outcomes for Indian children and their families  
 21 through the provision of assistance described in sub-  
 22 section (b); and

23               “(2) not part of any existing national child wel-  
 24 fare resource center.

25       “(b) *ASSISTANCE PROVIDED.*—

1           “(1) *IN GENERAL.*—*The National Child Welfare*  
2           *Resource Center for Tribes shall—*

3                   “(A) *provide information, advice, edu-*  
4                   *cational materials, and technical assistance to*  
5                   *Indian tribes and tribal organizations with re-*  
6                   *spect to the types of services, administrative*  
7                   *functions, data collection, program management,*  
8                   *and reporting that are provided for under State*  
9                   *plans under part B and this part; and*

10                   “(B) *assist and provide technical assistance*  
11                   *to—*

12                           “(i) *Indian tribes, tribal organizations,*  
13                           *and tribal consortia seeking to operate a*  
14                           *program under part B or this part through*  
15                           *direct application to the Secretary under*  
16                           *section 479B; and*

17                           “(ii) *Indian tribes, tribal organiza-*  
18                           *tions, tribal consortia, and States seeking to*  
19                           *develop cooperative agreements to provide*  
20                           *for payments under this part or satisfy the*  
21                           *requirements of section 422(b)(9),*  
22                           *471(a)(29), or 477(b)(3)(G).*

23           “(2) *IMPLEMENTATION AUTHORITY.*—*The Sec-*  
24           *retary may provide the assistance described in para-*  
25           *graph (1) either directly or through a grant or con-*

1 *tract with public or private organizations knowledge-*  
 2 *able and experienced in the field of Indian tribal af-*  
 3 *fairs and child welfare.*

4 “(c) *APPROPRIATIONS.—There is appropriated to the*  
 5 *Secretary, out of any money in the Treasury of the United*  
 6 *States not otherwise appropriated, \$1,000,000 for each of*  
 7 *fiscal years 2009 through 2013 to carry out this section.”.*

8 **TITLE IV—SUPPORT FOR OLDER**  
 9 **CHILDREN IN FOSTER CARE**  
 10 **AND OTHER PROVISIONS**

11 **SEC. 401. STATE OPTION FOR CHILDREN IN FOSTER CARE,**  
 12 **AND CERTAIN CHILDREN IN AN ADOPTIVE OR**  
 13 **GUARDIANSHIP PLACEMENT, AFTER ATTAIN-**  
 14 **ING AGE 18.**

15 (a) *DEFINITION OF CHILD.—*

16 (1) *IN GENERAL.—Section 475 of the Social Se-*  
 17 *curity Act (42 U.S.C. 675) is amended by adding at*  
 18 *the end the following:*

19 “(8)(A) *Subject to subparagraph (B), the term*  
 20 *‘child’ means an individual who has not attained 18*  
 21 *years of age.*

22 “(B) *At the option of a State, the term shall in-*  
 23 *clude an individual—*

24 “(i)(I) *who is in foster care under the re-*  
 25 *sponsibility of the State;*

1           “(II) with respect to whom an adoption as-  
2           sistance agreement is in effect under section 473  
3           if the child had attained 16 years of age before  
4           the agreement became effective; or

5           “(III) with respect to whom a relative  
6           guardianship assistance agreement is in effect  
7           under section 473(d) if the child had attained 16  
8           years of age before the agreement became effec-  
9           tive;

10           “(ii) who has attained 18 years of age;

11           “(iii) who has not attained 19, 20, or 21  
12           years of age, as the State may elect; and

13           “(iv) who—

14           “(I) is completing secondary education  
15           or a program leading to an equivalent cre-  
16           dential;

17           “(II) is enrolled in an institution  
18           which provides post-secondary or vocational  
19           education;

20           “(III) is participating in a program  
21           or activity designed to promote, or remove  
22           barriers to, employment;

23           “(IV) is employed for at least 80 hours  
24           per month; or

1                   “(V) the State determines is particu-  
2                   larly vulnerable or a high-risk individual.”.

3           (b) *CONFORMING AMENDMENT TO DEFINITION OF*  
4 *CHILD-CARE INSTITUTION.*—Section 472(c)(2) of such Act  
5 (42 U.S.C. 672(c)(2)) is amended by inserting “, except,  
6 in the case of a child who has attained 18 years of age,  
7 the term shall include a supervised setting in which the in-  
8 dividual is living independently, in accordance with such  
9 conditions as the Secretary shall establish in regulations”  
10 before the period.

11           (c) *CONFORMING AMENDMENTS TO AGE LIMITS APPLI-*  
12 *CABLE TO CHILDREN ELIGIBLE FOR ADOPTION ASSIST-*  
13 *ANCE OR RELATIVE GUARDIANSHIP ASSISTANCE.*—Section  
14 473(a)(4) of such Act (42 U.S.C. 673(a)(4)) is amended to  
15 read as follows:

16           “(4)(A) Notwithstanding any other provision of this  
17 section, a payment may not be made pursuant to this sec-  
18 tion to parents or relative guardians with respect to a  
19 child—

20                   “(i) who has attained—

21                           “(I) 18 years of age, or such greater age as  
22                           the State may elect under section 475(8)(B)(iii);  
23                           or

24                           “(II) 21 years of age, if the State deter-  
25                           mines that the child has a mental or physical



1           (2) *in subparagraph (G), by striking the period*  
2 *at the end and inserting “; and”; and*

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

4                   “(H) *during the 90-day period immediately*  
5 *prior to the date of the legal emancipation of a*  
6 *child, whether during that period foster care*  
7 *maintenance payments are being made on the*  
8 *child’s behalf or the child is receiving benefits or*  
9 *services under section 477, a caseworker on the*  
10 *staff of the State agency, and, as appropriate,*  
11 *other representatives of the child provide the*  
12 *child with assistance and support in developing*  
13 *a transition plan that is personalized at the di-*  
14 *rection of the child, includes specific options on*  
15 *housing, health insurance, education, local op-*  
16 *portunities for mentors and continuing support*  
17 *services, and work force supports and employ-*  
18 *ment services, and is as detailed as the child*  
19 *may elect.”.*

20       (b) *EFFECTIVE DATE.—*

21           (1) *IN GENERAL.—Except as provided in para-*  
22 *graph (2), the amendments made by this section shall*  
23 *take effect on October 1, 2008.*

24           (2) *DELAY PERMITTED IF STATE LEGISLATION*  
25 *REQUIRED.—In the case of a State plan approved*

1        *under part B or E of title IV of the Social Security*  
2        *Act which the Secretary of Health and Human Serv-*  
3        *ices determines requires State legislation (other than*  
4        *legislation appropriating funds) in order for the plan*  
5        *to meet the additional requirements imposed by this*  
6        *Act, the State plan shall not be regarded as failing*  
7        *to comply with the requirements of such part solely*  
8        *on the basis of the failure of the plan to meet such*  
9        *additional requirements before the 1st day of the 1st*  
10       *calendar quarter beginning after the close of the 1st*  
11       *regular session of the State legislature that ends after*  
12       *the 1-year period beginning with the date of the en-*  
13       *actment of this Act. For purposes of the preceding*  
14       *sentence, in the case of a State that has a 2-year leg-*  
15       *islative session, each year of the session is deemed to*  
16       *be a separate regular session of the State legislature.*

17       **SEC. 403. EDUCATIONAL STABILITY.**

18       *(a) IN GENERAL.—Section 475 of the Social Security*  
19       *Act (42 U.S.C. 675), as amended by section 201(g) of this*  
20       *Act, is amended—*

21                *(1) in paragraph (1)—*

22                        *(A) in subparagraph (C), by striking clause*  
23                        *(iv) and redesignating clauses (v) through (viii)*  
24                        *as clauses (iv) through (vii), respectively; and*

25                        *(B) by adding at the end the following:*

1           “(G) *A plan for ensuring the educational*  
2 *stability of the child while in foster care, includ-*  
3 *ing—*

4                   “(i) *assurances that the placement of*  
5 *the child in foster care takes into account*  
6 *the appropriateness of the current edu-*  
7 *cational setting and the proximity to the*  
8 *school in which the child is enrolled at the*  
9 *time of placement; and*

10                   “(ii)(I) *an assurance that the State*  
11 *agency has coordinated with appropriate*  
12 *local educational agencies (as defined under*  
13 *section 9101 of the Elementary and Sec-*  
14 *ondary Education Act of 1965) to ensure*  
15 *that the child remains in the school in*  
16 *which the child is enrolled at the time of*  
17 *placement; or*

18                   “(II) *if remaining in such school is not*  
19 *in the best interests of the child, assurances*  
20 *by the State agency and the local edu-*  
21 *cational agencies to provide immediate and*  
22 *appropriate enrollment in a new school,*  
23 *with all of the educational records of the*  
24 *child provided to the school.”; and*

25           (2) *in the 1st sentence of paragraph (4)(A)—*

1           (A) by striking “and reasonable” and in-  
2           serting “reasonable”; and

3           (B) by inserting “, and reasonable travel for  
4           the child to remain in the school in which the  
5           child is enrolled at the time of placement” before  
6           the period.

7           (b) *EDUCATIONAL ATTENDANCE REQUIREMENT.*—Sec-  
8           tion 471(a) of the Social Security Act (42 U.S.C. 671(a)),  
9           as amended by sections 201(f)(1)(B) and 301(c)(1) of this  
10          Act, is amended—

11           (1) by striking “and” at the end of paragraph  
12           (28);

13           (2) by striking the period at the end of para-  
14           graph (29) and inserting “; and”; and

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

16           “(30) provides assurances that each child who  
17           has attained the minimum age for compulsory school  
18           attendance under State law and with respect to whom  
19           there is eligibility for a payment under the State plan  
20           is a full-time elementary or secondary school student  
21           or has completed secondary school, and for purposes  
22           of this paragraph, the term ‘elementary or secondary  
23           school student’ means, with respect to a child, that the  
24           child is—

1           “(A) enrolled (or in the process of enrolling)  
 2           in an institution which provides elementary or  
 3           secondary education, as determined under the  
 4           law of the State or other jurisdiction in which  
 5           the institution is located;

6           “(B) instructed in elementary or secondary  
 7           education at home in accordance with a home  
 8           school law of the State or other jurisdiction in  
 9           which the home is located;

10           “(C) in an independent study elementary or  
 11           secondary education program in accordance with  
 12           the law of the State or other jurisdiction in  
 13           which the program is located, which is adminis-  
 14           tered by the local school or school district; or

15           “(D) incapable of attending school on a  
 16           full-time basis due to the medical condition of  
 17           the child, which incapability is supported by reg-  
 18           ularly updated information included in the case  
 19           plan of the child.”.

20           (c) *EFFECTIVE DATE.*—

21           (1) *IN GENERAL.*—*Except as provided in para-*  
 22           *graph (2), the amendments made by this section shall*  
 23           *take effect on October 1, 2008.*

24           (2) *DELAY PERMITTED IF STATE LEGISLATION*  
 25           *REQUIRED.*—*In the case of a State plan approved*

1        *under part B or E of title IV of the Social Security*  
2        *Act which the Secretary of Health and Human Serv-*  
3        *ices determines requires State legislation (other than*  
4        *legislation appropriating funds) in order for the plan*  
5        *to meet the additional requirements imposed by this*  
6        *Act, the State plan shall not be regarded as failing*  
7        *to comply with the requirements of such part solely*  
8        *on the basis of the failure of the plan to meet such*  
9        *additional requirements before the 1st day of the 1st*  
10       *calendar quarter beginning after the close of the 1st*  
11       *regular session of the State legislature that ends after*  
12       *the 1-year period beginning with the date of the en-*  
13       *actment of this Act. For purposes of the preceding*  
14       *sentence, in the case of a State that has a 2-year leg-*  
15       *islative session, each year of the session is deemed to*  
16       *be a separate regular session of the State legislature.*

17       **TITLE V—REVENUE PROVISIONS**

18       **SEC. 501. CLARIFICATION OF UNIFORM DEFINITION OF**

19                        **CHILD.**

20                (a) *CHILD MUST BE YOUNGER THAN CLAIMANT.—*  
21        *Section 152(c)(3)(A) of the Internal Revenue Code of 1986*  
22        *is amended by inserting “is younger than the taxpayer*  
23        *claiming such individual as a qualifying child and” after*  
24        *“such individual”.*

1       **(b) CHILD MUST BE UNMARRIED.**—Section 152(c)(1)  
 2 of such Code is amended by striking “and” at the end of  
 3 subparagraph (C), by striking the period at the end of sub-  
 4 paragraph (D) and inserting “, and”, and by adding at  
 5 the end the following new subparagraph:

6               “(E) who has not filed a joint return (other  
 7 than only for a claim of refund) with the indi-  
 8 vidual’s spouse under section 6013 for the tax-  
 9 able year beginning in the calendar year in  
 10 which the taxable year of the taxpayer begins.”.

11       **(c) RESTRICT QUALIFYING CHILD TAX BENEFITS TO**  
 12 **CHILD’S PARENT.**—

13               **(1) CHILD TAX CREDIT.**—Subsection (a) of sec-  
 14 tion 24 of such Code is amended by inserting “for  
 15 which the taxpayer is allowed a deduction under sec-  
 16 tion 151” after “of the taxpayer”.

17               **(2) PERSONS OTHER THAN PARENTS CLAIMING**  
 18 **QUALIFYING CHILD.**—

19               **(A) IN GENERAL.**—Paragraph (4) of section  
 20 152(c) of such Code is amended by adding at the  
 21 end the following new subparagraph:

22               “(C) **NO PARENT CLAIMING QUALIFYING**  
 23 **CHILD.**—If the parents of an individual may  
 24 claim such individual as a qualifying child but  
 25 no parent so claims the individual, such indi-

1            *vidual may be claimed as the qualifying child of*  
 2            *another taxpayer but only if the adjusted gross*  
 3            *income of such taxpayer is higher than the high-*  
 4            *est adjusted gross income of any parent of the in-*  
 5            *dividual.”.*

6            *(B) CONFORMING AMENDMENTS.—*

7                    *(i) Subparagraph (A) of section*  
 8                    *152(c)(4) of such Code is amended by strik-*  
 9                    *ing “Except” through “2 or more tax-*  
 10                   *payers” and inserting “Except as provided*  
 11                   *in subparagraphs (B) and (C), if (but for*  
 12                   *this paragraph) an individual may be*  
 13                   *claimed as a qualifying child by 2 or more*  
 14                   *taxpayers”.*

15                   *(ii) The heading for paragraph (4) of*  
 16                   *section 152(c) of such Code is amended by*  
 17                   *striking “CLAIMING” and inserting “WHO*  
 18                   *CAN CLAIM THE SAME”.*

19            *(d) EFFECTIVE DATE.—The amendments made by this*  
 20            *section shall apply to taxable years beginning after Decem-*  
 21            *ber 31, 2008.*

22            **SEC. 502. COLLECTION OF UNEMPLOYMENT COMPENSA-**  
 23            **TION DEBTS RESULTING FROM FRAUD.**

24            *(a) IN GENERAL.—Section 6402 of the Internal Rev-*  
 25            *enue Code of 1986 (relating to authority to make credits*

1 *or refunds) is amended by redesignating subsections (f)*  
2 *through (k) as subsections (g) through (l), respectively, and*  
3 *by inserting after subsection (e) the following new sub-*  
4 *section:*

5       “(f) *COLLECTION OF UNEMPLOYMENT COMPENSATION*  
6 *DEBTS RESULTING FROM FRAUD.—*

7               “(1) *IN GENERAL.—Upon receiving notice from*  
8 *any State that a named person owes a covered unem-*  
9 *ployment compensation debt to such State, the Sec-*  
10 *retary shall, under such conditions as may be pre-*  
11 *scribed by the Secretary—*

12                       “(A) *reduce the amount of any overpayment*  
13 *payable to such person by the amount of such*  
14 *covered unemployment compensation debt;*

15                       “(B) *pay the amount by which such over-*  
16 *payment is reduced under subparagraph (A) to*  
17 *such State and notify such State of such person’s*  
18 *name, taxpayer identification number, address,*  
19 *and the amount collected; and*

20                       “(C) *notify the person making such over-*  
21 *payment that the overpayment has been reduced*  
22 *by an amount necessary to satisfy a covered un-*  
23 *employment compensation debt.*

24       *If an offset is made pursuant to a joint return, the*  
25 *notice under subparagraph (C) shall include informa-*

1        *tion related to the rights of a spouse of a person sub-*  
2        *ject to such an offset.*

3            “(2) *PRIORITIES FOR OFFSET.*—*Any overpay-*  
4        *ment by a person shall be reduced pursuant to this*  
5        *subsection—*

6            “(A) *after such overpayment is reduced pur-*  
7        *suant to—*

8            “(i) *subsection (a) with respect to any*  
9        *liability for any internal revenue tax on the*  
10       *part of the person who made the overpay-*  
11       *ment;*

12           “(ii) *subsection (c) with respect to*  
13       *past-due support; and*

14           “(iii) *subsection (d) with respect to*  
15       *any past-due, legally enforceable debt owed*  
16       *to a Federal agency; and*

17           “(B) *before such overpayment is credited to*  
18       *the future liability for any Federal internal rev-*  
19       *enue tax of such person pursuant to subsection*  
20       *(b).*

21        *If the Secretary receives notice from a State or States*  
22        *of more than one debt subject to paragraph (1) or sub-*  
23        *section (e) that is owed by a person to such State or*  
24        *States, any overpayment by such person shall be ap-*

1        *plied against such debts in the order in which such*  
2        *debts accrued.*

3            *“(3) OFFSET PERMITTED ONLY AGAINST RESI-*  
4        *DENTS OF STATE SEEKING OFFSET.—Paragraph (1)*  
5        *shall apply to an overpayment by any person for a*  
6        *taxable year only if the address shown on the Federal*  
7        *return for such taxable year of the overpayment is an*  
8        *address within the State seeking the offset.*

9            *“(4) NOTICE; CONSIDERATION OF EVIDENCE.—*  
10        *No State may take action under this subsection until*  
11        *such State—*

12            *“(A) notifies by certified mail with return*  
13        *receipt the person owing the covered unemploy-*  
14        *ment compensation debt that the State proposes*  
15        *to take action pursuant to this section;*

16            *“(B) provides such person at least 60 days*  
17        *to present evidence that all or part of such liabil-*  
18        *ity is not legally enforceable or due to fraud;*

19            *“(C) considers any evidence presented by*  
20        *such person and determines that an amount of*  
21        *such debt is legally enforceable and due to fraud;*  
22        *and*

23            *“(D) satisfies such other conditions as the*  
24        *Secretary may prescribe to ensure that the deter-*  
25        *mination made under subparagraph (C) is valid*

1           *and that the State has made reasonable efforts to*  
 2           *obtain payment of such covered unemployment*  
 3           *compensation debt.*

4           “(5) *COVERED UNEMPLOYMENT COMPENSATION*  
 5           *DEBT.—For purposes of this subsection, the term ‘cov-*  
 6           *ered unemployment compensation debt’ means a debt*  
 7           *which resulted from a judgment rendered by a court*  
 8           *of competent jurisdiction and which is no longer sub-*  
 9           *ject to judicial review in an amount equal to—*

10                   “(A) *a past-due debt for erroneous payment*  
 11                   *of unemployment compensation due to fraud*  
 12                   *which has become final under the law of a State*  
 13                   *certified by the Secretary of Labor pursuant to*  
 14                   *section 3304 and which remains uncollected;*

15                   “(B) *contributions due to the unemployment*  
 16                   *fund of a State for which the State has deter-*  
 17                   *mined the person to be liable due to fraud; and*

18                   “(C) *any penalties and interest assessed on*  
 19                   *such debt.*

20           “(6) *REGULATIONS.—*

21                   “(A) *IN GENERAL.—The Secretary may*  
 22                   *issue regulations prescribing the time and man-*  
 23                   *ner in which States must submit notices of cov-*  
 24                   *ered unemployment compensation debt and the*  
 25                   *necessary information that must be contained in*

1           *or accompany such notices. The regulations may*  
2           *specify the minimum amount of debt to which*  
3           *the reduction procedure established by paragraph*  
4           *(1) may be applied.*

5           “(B) *FEE PAYABLE TO SECRETARY.*—*The*  
6           *regulations may require States to pay a fee to*  
7           *the Secretary, which may be deducted from*  
8           *amounts collected, to reimburse the Secretary for*  
9           *the cost of applying such procedure. Any fee paid*  
10          *to the Secretary pursuant to the preceding sen-*  
11          *tence shall be used to reimburse appropriations*  
12          *which bore all or part of the cost of applying*  
13          *such procedure.*

14          “(C) *SUBMISSION OF NOTICES THROUGH*  
15          *SECRETARY OF LABOR.*—*The regulations may in-*  
16          *clude a requirement that States submit notices of*  
17          *covered unemployment compensation debt to the*  
18          *Secretary via the Secretary of Labor in accord-*  
19          *ance with procedures established by the Secretary*  
20          *of Labor. Such procedures may require States to*  
21          *pay a fee to the Secretary of Labor to reimburse*  
22          *the Secretary of Labor for the costs of applying*  
23          *this subsection. Any such fee shall be established*  
24          *in consultation with the Secretary of the Treas-*  
25          *ury. Any fee paid to the Secretary of Labor may*

1           *be deducted from amounts collected and shall be*  
2           *used to reimburse the appropriation account*  
3           *which bore all or part of the cost of applying this*  
4           *subsection.*

5           “(7) *ERRONEOUS PAYMENT TO STATE.—Any*  
6           *State receiving notice from the Secretary that an er-*  
7           *roneous payment has been made to such State under*  
8           *paragraph (1) shall pay promptly to the Secretary,*  
9           *in accordance with such regulations as the Secretary*  
10          *may prescribe, an amount equal to the amount of*  
11          *such erroneous payment (without regard to whether*  
12          *any other amounts payable to such State under such*  
13          *paragraph have been paid to such State).”.*

14          (b) *DISCLOSURE OF CERTAIN INFORMATION TO*  
15          *STATES REQUESTING REFUND OFFSETS FOR LEGALLY EN-*  
16          *FORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT*  
17          *RESULTING FROM FRAUD.—*

18                 (1) *GENERAL RULE.—Paragraph (3) of section*  
19                 *6103(a) of such Code is amended by inserting “(10),”*  
20                 *after “(6),”.*

21                 (2) *DISCLOSURE TO DEPARTMENT OF LABOR AND*  
22                 *ITS AGENT.—Paragraph (10) of section 6103(l) of*  
23                 *such Code is amended—*

1           (A) by striking “(c), (d), or (e)” each place  
2           it appears in the heading and text and inserting  
3           “(c), (d), (e), or (f)”;

4           (B) in subparagraph (A) by inserting “, to  
5           officers and employees of the Department of  
6           Labor for purposes of facilitating the exchange of  
7           data in connection with a request made under  
8           subsection (f)(5) of section 6402,” after “section  
9           6402”, and

10          (C) in subparagraph (B)—

11           (i) by inserting “(i)” after “(B)”; and

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

13           “(ii) Notwithstanding clause (i), return in-  
14           formation disclosed to officers and employees of  
15           the Department of Labor may be accessed by  
16           agents who maintain and provide technological  
17           support to the Department of Labor’s Interstate  
18           Connection Network (ICON) solely for the pur-  
19           pose of providing such maintenance and sup-  
20           port.”.

21          (3) SAFEGUARDS.—Paragraph (4) of section  
22          6103(p) of such Code is amended—

23           (A) in the matter preceding subparagraph  
24           (A), by striking “(l)(16),” and inserting “(l)(10),  
25           (16),”;

1           (B) in subparagraph (F)(i), by striking  
2           “(l)(16),” and inserting “(l)(10), (16),”; and

3           (C) in the matter following subparagraph  
4           (F)(iii)—

5                 (i) in each of the first two places it ap-  
6                 pears, by striking “(l)(16),” and inserting  
7                 “(l)(10), (16),”;

8                 (ii) by inserting “(10),” after “para-  
9                 graph (6)(A),”; and

10                (iii) in each of the last two places it  
11                appears, by striking “(l)(16)” and inserting  
12                “(l)(10) or (16)”.

13           (c) *EXPENDITURES FROM STATE FUND.*—Section  
14           3304(a)(4) of such Code is amended—

15                 (1) in subparagraph (E), by striking “and” after  
16                 the semicolon;

17                 (2) in subparagraph (F), by inserting “and”  
18                 after the semicolon; and

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

21                         “(G) with respect to amounts of covered un-  
22                         employment compensation debt (as defined in  
23                         section 6402(f)(4)) collected under section  
24                         6402(f)—

1           “(i) amounts may be deducted to pay  
2           any fees authorized under such section; and

3           “(ii) the penalties and interest de-  
4           scribed in section 6402(f)(4)(B) may be  
5           transferred to the appropriate State fund  
6           into which the State would have deposited  
7           such amounts had the person owing the debt  
8           paid such amounts directly to the State;”.

9           (d) CONFORMING AMENDMENTS.—

10           (1) Subsection (a) of section 6402 of such Code  
11           is amended by striking “(c), (d), and (e),” and insert-  
12           ing “(c), (d), (e), and (f)”.

13           (2) Paragraph (2) of section 6402(d) of such  
14           Code is amended by striking “and before such over-  
15           payment is reduced pursuant to subsection (e)” and  
16           inserting “and before such overpayment is reduced  
17           pursuant to subsections (e) and (f)”.

18           (3) Paragraph (3) of section 6402(e) of such  
19           Code is amended in the last sentence by inserting “or  
20           subsection (f)” after “paragraph (1)”.

21           (4) Subsection (g) of section 6402 of such Code,  
22           as redesignated by subsection (a), is amended by  
23           striking “(c), (d), or (e)” and inserting “(c), (d), (e),  
24           or (f)”.

1           (5) *Subsection (i) of section 6402 of such Code,*  
 2           *as redesignated by subsection (a), is amended by*  
 3           *striking “subsection (c) or (e)” and inserting “sub-*  
 4           *section (c), (e), or (f)”.*

5           (e) *EFFECTIVE DATE.—The amendments made by this*  
 6           *section shall apply to refunds payable under section 6402*  
 7           *of the Internal Revenue Code of 1986 on or after the date*  
 8           *of enactment of this Act.*

9           **SEC. 503. INVESTMENT OF OPERATING CASH.**

10          (a) *IN GENERAL.—Section 323 of title 31, United*  
 11          *States Code, is amended to read as follows:*

12          **“§ 323. Investment of operating cash**

13           “(a) *To manage United States cash, the Secretary of*  
 14           *the Treasury may invest any part of the operating cash*  
 15           *of the Treasury for not more than 90 days. The Secretary*  
 16           *may invest the operating cash of the Treasury in—*

17                   “(1) *obligations of depositories maintaining*  
 18                   *Treasury tax and loan accounts secured by pledged*  
 19                   *collateral acceptable to the Secretary;*

20                   “(2) *obligations of the United States Govern-*  
 21                   *ment; and*

22                   “(3) *repurchase agreements with parties accept-*  
 23                   *able to the Secretary.*

1           “(b) Subsection (a) of this section does not require the  
2 Secretary to invest a cash balance held in a particular ac-  
3 count.

4           “(c) The Secretary shall consider the prevailing market  
5 in prescribing rates of interest for investments under sub-  
6 section (a)(1) of this section.

7           “(d)(1) The Secretary of the Treasury shall submit  
8 each fiscal year to the appropriate committees a report de-  
9 tailing the investment of operating cash under subsection  
10 (a) for the preceding fiscal year. The report shall describe  
11 the Secretary’s consideration of risks associated with invest-  
12 ments and the actions taken to manage such risks.

13           “(2) For purposes of paragraph (1), the term ‘appro-  
14 priate committees’ means the Committee on Ways and  
15 Means of the House of Representatives and the Committee  
16 on Finance of the Senate.”.

17           (b) *EFFECTIVE DATE.*—The amendment made by sub-  
18 section (a) takes effect on October 1, 2008.



Calendar No. 972

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 3038**

[Report No. 110-467]

---

---

## **A BILL**

To amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes.

---

---

SEPTEMBER 16, 2008

Reported with an amendment