#### 112TH CONGRESS 1ST SESSION

# H. R. 2346

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

## IN THE HOUSE OF REPRESENTATIVES

June 23, 2011

Ms. Woolsey (for herself, Mr. Stark, Mrs. Maloney, Ms. Delauro, Mr. George Miller of California, Ms. Schakowsky, Mr. Davis of Illinois, Ms. Lee of California, Mr. Conyers, Ms. Waters, Mr. Olver, Ms. Hirono, Mr. Hastings of Florida, Mr. Brady of Pennsylvania, Mr. Filner, Ms. Moore, Mr. Payne, Mr. Jackson of Illinois, Mr. Rush, Mr. McDermott, Ms. Chu, Mr. Ellison, Mr. Hinchey, Mr. Grijalva, Ms. Brown of Florida, Mr. Honda, Ms. Norton, Ms. Fudge, and Mr. Serrano) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Oversight and Government Reform, House Administration, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

## A BILL

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

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

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

- 2 (a) Short Title.—This Act may be cited as the
- 3 "Balancing Act of 2011".
- 4 (b) Table of Contents of
- 5 this Act is as follows:
  - Sec. 1. Short title; table of contents.
  - Sec. 2. Findings.

## TITLE I—PAID LEAVE FOR NEW PARENTS AND FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT

#### Subtitle A—Paid Leave for New Parents

- Sec. 101. Short title.
- Sec. 102. General definitions.

#### PART 1—FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

- Sec. 111. Program definitions.
- Sec. 112. Establishment of program.
- Sec. 113. Program benefits.
- Sec. 114. Voluntary employer plan.
- Sec. 115. Additional benefits.
- Sec. 116. Prohibited acts by employer.
- Sec. 117. Enforcement.
- Sec. 118. Penalties.
- Sec. 119. Education programs.
- Sec. 120. Regulations.
- Sec. 121. Effective date.

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

- Sec. 131. Program definitions.
- Sec. 132. Establishment of program.

#### PART 3—FAMILY AND MEDICAL LEAVE INSURANCE FUND

- Sec. 141. Establishment.
- Sec. 142. Board of Trustees.
- Sec. 143. Investment of the Family and Medical Leave Insurance Fund.
- Sec. 144. Payments from Family and Medical Leave Insurance Fund.
- Sec. 145. Administrative expenses.
- Sec. 146. Amendments to the Internal Revenue Code of 1986.

#### Subtitle B—Family and Medical Leave Enhancement Act

- Sec. 151. Short title.
- Sec. 152. Eligible employee.
- Sec. 153. Entitlement to additional leave under the FMLA for parental involvement and family wellness.

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

#### Subtitle C—Domestic Violence Leave Act

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

#### Subtitle D—Healthy Families Act

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

#### TITLE II—CHILD CARE EXPANSION AND IMPROVEMENT

#### Subtitle A—Care for Young Children

Sec. 201. Expanding child care for young children.

#### Subtitle B—Improving Child Care Quality Through Teacher Incentives

- Sec. 211. Purpose.
- Sec. 212. Definitions.
- Sec. 213. Funds for child care provider development and retention grants, scholarships, and health benefits coverage.
- Sec. 214. Allotments to States.
- Sec. 215. Application and plan.
- Sec. 216. Child Care Provider Development and Retention Grant Program.
- Sec. 217. Child Care Provider Scholarship Program.
- Sec. 218. Child care provider health benefits coverage.
- Sec. 219. Annual report.
- Sec. 220. Evaluation of health benefits programs by Secretary.
- Sec. 221. Authorization of appropriations.

#### Subtitle C—Child Care Facilities Financing

- Sec. 231. Short title.
- Sec. 232. Technical and financial assistance grants.
- Sec. 233. Definitions.
- Sec. 234. Authorization of appropriations.

#### Subtitle D—Business Child Care Incentive Grant Program

Sec. 241. Business child care incentive grant program.

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

#### Subtitle A—Universal Prekindergarten Act

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

#### Subtitle B—Universal Free School Breakfast Program

Sec. 311. Universal free school breakfast program.

#### Subtitle C—Afterschool Education Enhancement Act

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

#### TITLE IV—IMPROVING THE WORKPLACE FOR FAMILIES

#### Subtitle A—Part-Time and Temporary Workers Benefits

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

#### Subtitle B—United States Business Telework Act

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

#### 1 SEC. 2. FINDINGS.

- 2 Congress finds the following:
- 3 (1) Currently 58 percent of married families
- 4 with children in the United States, both parents

- work full-time. Seventy-one percent of mothers with children under age 18 work full-time.
- 3 (2) The National Study of the Changing Work-4 force found that 75 percent of employed parents in-5 dicated that they don't have enough time with their 6 children.
  - (3)(A) A survey conducted by the Boys and Girls Clubs of America found that more than half of the respondents indicated that they had little or no time to spend in physical activities with their children.
  - (B) Parents in 3,500,000 households, representing 7,000,000 children, spend an hour or less a week doing physical activities with their children.
  - (C) The primary obstacle cited by the parents to engaging in physical activities with their children was their work schedules.
  - (4) According to the National Partnership for Women and Families, 78 percent of workers who need leave do not take it because they cannot afford it.
  - (5) Nearly every industrialized nation other than the United States, and most developing nations, provides parents with paid leave for infant care.

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- (6) In the United States, more than half of all mothers of children under the age of one work. Yet parents of infants and toddlers face acute problems finding child care, and child care that is available is often of mediocre quality.
  - (7) Since 2000, the cost of child care has increased twice as fast as the median income of families with children. According to the National Association of Child Care Resource & Referral Agencies, the average annual cost of child care ranges from \$4,560 in Mississippi to \$18,773 in Massachusetts. In addition, the annual cost of child care for a 4-year old is more than the annual in State tuition at a public four-year college in 36 States and the District of Columbia.
  - (8) The average annual child care teacher salary is \$20,940, a wage so low that many programs find it extremely challenging to recruit fully qualified teachers and to retain them. High turnover rates make it more difficult to provide quality and continuity of care.
  - (9) Only 17 percent of eligible families received child care assistance through the Child Care Development Block Grant, the Social Services Block Grant, and the Temporary Assistance for Needy

- Families program in 2006. In addition, approximately 40 percent of eligible preschoolers are able to participate in the Head Start program.
  - (10) Among needy students, school nutrition programs often provide the primary opportunity for consumption of nutritionally valuable foods.
  - (11) Breakfast is a critical meal for children and provides the nutrition necessary to optimize their learning capacities.
  - (12) According to a recent nationwide report by the Afterschool Alliance, approximately 15,000,000 children in the United States are left alone after school each week without adult supervision.
  - (13) Violent juvenile crime peaks between the hours of 3:00 p.m. and 7:00 p.m. and teens are more likely to be victims of serious violent crime in the hour after school lets out than any other time of the day.
  - (14) The Nation's communities can benefit from teleworking, which give workers more time to spend at home with their families.
  - (15) Companies with telework programs have found that telework can boost employee productivity 5 percent to 20 percent, thereby saving businesses valuable resources and time.

1	TITLE I—PAID LEAVE FOR NEW
2	PARENTS AND FAMILY AND
3	MEDICAL LEAVE ENHANCE-
4	MENT ACT
5	Subtitle A—Paid Leave for New
6	Parents
7	SEC. 101. SHORT TITLE.
8	This subtitle may be cited as the "Family Leave In-
9	surance Act".
10	SEC. 102. GENERAL DEFINITIONS.
11	(a) In General.—The definitions provided by sec-
12	tion 101 of the Family and Medical Leave Act of 1993
13	(29 U.S.C. 2611), other than the definitions of the terms
14	"son or daughter", shall apply for purposes of this sub-
15	title.
16	(b) Additional Definitions.—In this subtitle, the
17	following additional definitions shall apply:
18	(1) Board of Trustees.—The term "Board
19	of Trustees' means the Board of Trustees of the In-
20	surance Fund.
21	(2) COVERED AGENCY.—The term "covered
22	agency", when used with respect to a State, means
23	the State agency referred to in paragraph (1) of sec-
24	tion 112(b), or the Commissioner of Social Security

if the Commissioner is carrying out the State Family

- and Medical Insurance Program in the State under
   paragraph (2) of such section.
  - (3) Domestic Partner.—The term "domestic partner" means—
    - (A) the person recognized as the domestic partner of the employee under any domestic partner registry or civil union laws of the State or political subdivision of a State where the employee resides;
    - (B) a same-sex spouse as determined under the applicable law of the State or political subdivision of a State where the employee resides; or
    - (C) in the case of an unmarried employee who lives in a State where a person cannot marry a person of the same sex under the laws of the State, a single, unmarried adult person of the same sex as the employee who is in a committed, intimate relationship with the employee, is not a domestic partner to any other person, and who is designated to the employer by such employee as that employee's domestic partner.

1	(4) Insurance fund.—The term "Insurance
2	Fund" means the Family and Medical Leave Insur-
3	ance Fund established under section 141.
4	(5) Managing trustee.—The term "Man-
5	aging Trustee" means the Managing Trustee of the
6	Board of Trustees of the Insurance Fund.
7	(6) Son or daughter.—The term "son or
8	daughter" means a biological, adopted, or foster
9	child, a stepchild, a legal ward, a child of a person's
10	domestic partner, or a child of a person standing in
11	loco parentis, who is—
12	(A) under 18 years of age; or
13	(B) 18 years of age or older and incapable
14	of self-care because of a mental or physical dis-
15	ability.
16	PART 1—FAMILY AND MEDICAL LEAVE
17	INSURANCE PROGRAM
18	SEC. 111. PROGRAM DEFINITIONS.
19	In this part:
20	(1) Eligible employee.—The term "eligible
21	employee" means any of the following:
22	(A) An employee who—
23	(i) earned wages with a covered em-
24	ployer for a minimum of 6 months prior to

1	filing an application for leave benefits
2	under this part; and
3	(ii) has been employed by the em-
4	ployer with respect to whom paid leave is
5	requested for at least 625 hours of service
6	during the previous 6 months.
7	(B) An employee—
8	(i) of a small employer that has elect-
9	ed to participate in the Program under
10	this part in accordance with such regula-
11	tions as the Secretary shall prescribe; and
12	(ii) who meets the requirements of
13	subparagraph (A), but is not an employee
14	of the Federal Government.
15	(C) A self-employed individual who has—
16	(i) elected to participate in the Pro-
17	gram under this part in accordance with
18	such regulations as the Secretary shall pre-
19	scribe;
20	(ii) self-employment income while a
21	covered employer for 6 of the last 12
22	months prior to filing an application for
23	leave benefits under this part; and
24	(iii) paid premiums under section
25	1401(c) of the Internal Revenue Code of

1	1986 with respect to such self-employment
2	income.
3	(2) Employer-related definitions.—
4	(A) COVERED EMPLOYER.—The term
5	"covered employer" means a person—
6	(i) that is—
7	(I) an employer;
8	(II) a small employer that has
9	elected to participate in the Program
10	under this part in accordance with
11	such regulations as the Secretary shall
12	prescribe; or
13	(III) a self-employed individual
14	who has elected to so participate; and
15	(ii) that is not a voluntary plan em-
16	ployer.
17	(B) Employer.—The term "employer"
18	shall have the meaning given that term in sec-
19	tion 101(4) of the Family and Medical Leave
20	Act of 1993 (29 U.S.C. 2611(4)), except that
21	such term shall include any person who employs
22	2 or more employees for each working day dur-
23	ing each of 20 or more calendar workweeks in
24	the current or preceding calendar year.

1	(C) Small employer.—The term "small
2	employer''—
3	(i) means any person engaged in com-
4	merce or in any industry or activity affect-
5	ing commerce who employs not less than 2
6	and not more than 19 employees for each
7	working day during each of 20 or more
8	calendar workweeks in the current or pre-
9	ceding calendar year; and
10	(ii) includes—
11	(I) any person who acts, directly
12	or indirectly, in the interest of an em-
13	ployer described in clause (i) to any of
14	the employees of such employer;
15	(II) any successor in interest of
16	an employer described in clause (i);
17	and
18	(III) any public agency, as de-
19	fined in section 3(x) of the Fair Labor
20	Standards Act of 1938 (29 U.S.C.
21	203(x)) that is an employer described
22	in clause (i) but is not an entity of the
23	Federal Government.
24	(D) VOLUNTARY PLAN EMPLOYER.—The
25	term "voluntary plan employer" means an em-

1	ployer for which the Secretary has approved a
2	voluntary plan under section 114 for the period
3	involved.
4	(3) Leave benefit.—The term "leave benefit"
5	means a family and medical leave insurance benefit
6	described in section 113.
7	(4) VOLUNTARY PAID BENEFIT.—The term
8	"voluntary paid benefit" means a family and medical
9	leave insurance benefit provided under a voluntary
10	plan approved under section 114 for the period in-
11	volved.
12	SEC. 112. ESTABLISHMENT OF PROGRAM.
13	(a) Federal Program.—The Secretary of Labor
14	shall establish a Family and Medical Insurance Program.
15	(b) State Programs.—In carrying out the Federal
16	Program established under subsection (a), the Secretary
17	may—
18	(1) enter into a contract with a State under
19	which—
20	(A) the State agrees to establish, or ex-
21	pand a State program in effect at the date of
22	the enactment of this Act to include, a State
23	Family and Medical Insurance Program that
24	provides the benefits described in this part; and

1	(B) the Secretary agrees to instruct the
2	Managing Trustee of the Family and Medical
3	Leave Insurance Fund, established under sec-
4	tion 141, to provide the State funds for such
5	benefits from the Insurance Fund; or
6	(2) at the request of the Governor of a State,
7	enter into an interagency agreement with the Com-
8	missioner of Social Security under which—
9	(A) the Commissioner of Social Security
10	agrees to establish a State Family and Medical
11	Insurance Program in such State to provide the
12	benefits described in this part in such State;
13	and
14	(B) the Secretary agrees to instruct the
15	Managing Trustee of the Insurance Fund to
16	provide the Commissioner of Social Security
17	funds for such benefits from the Insurance
18	Fund.
19	(c) STATE APPLICATION.—To be eligible to receive
20	a contract under subsection (b)(1), a State shall submit
21	an application to the Secretary at such time, in such man-
22	ner, and containing such information as the Secretary may
23	require. At a minimum, the application shall include infor-
24	mation identifying the State agency to carry out the State

- Family and Medical Insurance Program under subsection 2 (b)(1).SEC. 113. PROGRAM BENEFITS. 4 (a) Entitlement.—Subject to subsections (b), (d), 5 and (e), an eligible employee of a covered employer shall be entitled to a family and medical leave insurance benefit 6 for a total of 12 workweeks of leave during any 12-month 8 period for 1 or more of the following reasons: 9 (1) Because of the birth of a son or daughter 10 of the employee and in order to care for such son 11 or daughter. 12 (2) Because of the placement of a son or 13 daughter with the employee for adoption or foster 14 care. 15 (3) In order to care for a child, parent, spouse, 16 domestic partner, grandchild, grandparent, or sibling 17 of the employee and who has a serious health condi-18 tion. 19 (4) Because of a serious health condition that
  - (4) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
  - (5) Because of any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active

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1	duty (or has been notified of an impending call or
2	order to active duty) in the Armed Forces of the
3	United States in support of a contingency operation.
4	(6) In order to care for a child, parent, spouse,
5	domestic partner, grandchild, grandparent, sibling,
6	or next of kin of the employee who is a covered serv-
7	icemember as such term is defined in section
8	101(16) of the Family and Medical Leave Act of
9	1993 (29 U.S.C. 2611(16)).
10	(b) Waiting Period.—During each 12-month pe-
11	riod described in subsection (a), each eligible employee
12	shall be subject to a waiting period of 5 workdays of leave
13	described in subsection (a) (but not more than 7 calendar
14	days), during which a leave benefit shall not be paid to
15	the employee. The waiting period shall not reduce the 12
16	workweeks of leave benefits available under subsection (a).
17	(c) Benefit Amount.—
18	(1) In general.—Subject to paragraph (2), an
19	eligible employee's leave benefit for any workday on
20	which the employee takes leave as described in sub-
21	section (a) shall be calculated as—
22	(A) in the case of an employee with an an-
23	nual income of not more than \$20,000, an
24	amount equal to 100 percent of that employee's
25	daily earnings;

1	(B) in the case of an employee with an an-
2	nual income of more than \$20,000 and not
3	more than \$30,000, an amount equal to the
4	greater of—
5	(i) 75 percent of that employee's daily
6	earnings; or
7	(ii) 100 percent of the daily earnings
8	of an employee with an annual income of
9	\$20,000;
10	(C) in the case of an employee with an an-
11	nual income of more than \$30,000 and not
12	more than \$60,000, an amount equal to the
13	greater of—
14	(i) 55 percent of that employee's daily
15	earnings; or
16	(ii) 75 percent of the daily earnings of
17	an employee with an annual income of
18	\$30,000;
19	(D) in the case of an employee with an an-
20	nual income of more than \$60,000 and not
21	more than \$97,000, an amount equal to the
22	greater of—
23	(i) 40 percent of that employee's daily
24	earnings; or

1	(ii) 55 percent of the daily earnings of
2	an employee with an annual income of
3	\$60,000; and
4	(E) in the case of an employee with an an-
5	nual income of more than \$97,000, an amount
6	equal to 40 percent of the daily earnings of an
7	employee with an annual income of \$97,000.
8	(2) Indexing of annual income cat-
9	EGORIES.—
10	(A) IN GENERAL.—The Secretary shall
11	index the annual income amounts specified in
12	paragraph (1) for each calendar year, using the
13	national average wage index, as determined
14	under section 209(k) of the Social Security Act
15	(42 U.S.C. 409(k)).
16	(B) Publication.—Not later than the
17	November 1 preceding each calendar year, the
18	Secretary shall publish in the Federal Register
19	the indexed amount determined under subpara-
20	graph (A) for that calendar year.
21	(d) Application.—
22	(1) In general.—To be eligible to receive a
23	family and medical insurance benefit under this part
24	in a State, an eligible employee shall submit an ap-
25	plication to the covered agency for the State at such

- time, in such manner, and containing the information specified in paragraph (3) and such additional information as the agency may require.
  - (2) IRREVOCABILITY FOR SELF-EMPLOYED IN-DIVIDUALS.—An election by a self-employed individual to participate in the Program shall be irrevocable.
  - (3) CERTIFICATION REQUIREMENTS.—The covered agency shall require each of the following, as part of the application for benefits under this section in connection with any leave:
    - (A) A certification, submitted in a timely manner, issued by the health care provider of the eligible employee or of the child, spouse, parent, domestic partner, grandchild, grandparent or sibling of the employee, as appropriate, and similar to the certification described section 103(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(b)) in connection with such leave.
    - (B) In any case in which the covered agency has reason to doubt the validity of the certification provided under subparagraph (A), the Secretary may require, at the expense of the covered agency, that the eligible employee ob-

tain the opinion of a second health care provider designated or approved by the agency concerning any information certified under subparagraph (A).

(C) In any case in which the second opinion described in subparagraph (B) differs from the opinion in the original certification provided under subparagraph (A), the covered agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the agency and the employee concerning the information certified under subparagraph (A). The opinion of the third health care provider concerning such information shall be considered to be final and shall be binding on the agency and the employee.

### (e) Payment of Benefits.—

- (1) Payment from insurance fund.—Payments of benefits required to be made under this section shall be made only from the Insurance Fund established under section 141.
- (2) CERTIFICATION AND PAYMENT.—On the final decision of a covered agency or on the final judgment of any court of competent jurisdiction pur-

1	suant to paragraph (3) that any person is entitled
2	to any payment under this section—
3	(A) the covered agency shall certify to the
4	Managing Trustee of the Board of Trustees of
5	the Insurance Fund the name and address of
6	the person entitled to receive such payment, the
7	amount of such payment, and the time at which
8	such payment shall be made;
9	(B) the Managing Trustee shall pay the
10	certified amount from the Insurance Fund to
11	the covered agency; and
12	(C) the covered agency shall make the pay-
13	ment to the person.
14	(3) Review.—Any eligible employee dissatisfied
15	with any initial determination under this section
16	shall be entitled to reconsideration of the determina-
17	tion, and a hearing on the determination, by the
18	Secretary to the same extent as is provided in sec-
19	tion 205(b) of the Social Security Act (42 U.S.C. 22
20	405(b)) and to judicial review of the final decision
21	after such hearing as is provided in section 205(g)
22	of the Social Security Act (42 U.S.C. 405(g)).
23	(4) Withholding of Certification.—In any
24	case in which a review of the covered agency's deci-

sion is or may be sought under paragraph (3), the

- covered agency may withhold certification of payment pending such review.
- 3 (5) OTHER COMPENSATION.—Except as pro-4 vided in section 115, no employee shall be eligible to 5 receive paid leave benefits under this part for any 6 period during which—
  - (A) the employee is receiving worker's compensation or compensation through unemployment insurance in connection with the event for which the employee is taking the leave; or
- 11 (B) the employee is receiving paid leave 12 benefits from an employer under a voluntary 13 employer plan approved under section 114.
- 14 (f) REGULATIONS.—The Secretary shall issue regula-15 tions to carry out this section, including the determination 16 of benefits for leave taken intermittently or on a reduced 17 leave schedule, or for leave taken by a part-time, seasonal, 18 or intermittent employee.

#### 19 SEC. 114. VOLUNTARY EMPLOYER PLAN.

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

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- 1 shall provide a voluntary paid benefit under the plan rath-
- 2 er than participating in the Program.
- 3 (b) APPROVAL.—The Secretary shall approve the vol-
- 4 untary plan of the applicant if the Secretary finds each
- 5 of the following with respect to the applicant:
- 6 (1) The rights afforded to the employees cov-
- 7 ered under the plan are equal to or greater than the
- 8 rights afforded through the Program.
- 9 (2) The plan has been made available to all of
- the employees of the applicant employed in the
- 11 United States or to all employees at any 1 distinct,
- separate establishment maintained by the applicant
- in the United States.
- 14 (3) A majority of the employees of the employer
- employed in the United States or a majority of the
- employees employed at any one distinct, separate es-
- tablishment maintained by the employer in the
- 18 United States have consented to the plan.
- 19 (4) The plan provides for insurance to be issued
- by an admitted disability insurer approved by the
- 21 Secretary or equivalent insurance (which may be
- self-insurance).
- 23 (5) The applicant has consented to the plan and
- has agreed to make the premium contributions re-

- quired, if any, and transmit the proceeds to the disability insurer, if any.

  (6) The plan provides for the inclusion of future
  - (6) The plan provides for the inclusion of future employees.
  - (7)(A) The plan will be in effect for a period of not less than 1 year and, thereafter, continuously unless the Secretary finds that the applicant has given notice of intent to terminate the plan, as described in subparagraph (B), and that the fee described in subparagraph (C) has been paid.
  - (B) The notice shall be filed in writing with the Secretary and shall be effective—
    - (i) on the anniversary of the effective date of the plan next following the date of the filing of the notice; or
    - (ii) if such anniversary would occur less than 30 days after the date of the filing of the notice, on the next anniversary of that effective date.
  - (C) The applicant shall pay a fee to the Secretary in such amount as the Secretary determines to be adequate to provide leave benefits under this part to all eligible employees of the applicant for a period of at least 4 months, plus an amount to pay

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- administrative costs related to processing and paying
  such benefits.
- 3 (D) Amounts received by the Secretary under 4 this paragraph shall be deposited in the Insurance 5 Fund.
- 6 (8) The amount of deductions from the wages 7 of an employee that is in effect for the plan shall not 8 be increased on any date other than on the date of 9 an anniversary of the effective date of the plan.
- 10 (c) Orders and Withdrawal of Approval.—If the Secretary finds that a voluntary plan employer is not 11 12 paying voluntary paid benefits required under the voluntary plan to the employees under the plan, the Secretary may order the employer to make the payments. If the Sec-14 15 retary finds that a voluntary plan employer is not complying with the provisions of the plan, including by not 16 17 paying voluntary paid benefits required under the plan, the Secretary may revoke the Secretary's approval for the 18 plan, and require the employer to participate in the Pro-19 20 gram.
- 21 SEC. 115. ADDITIONAL BENEFITS.
- 22 (a) Additional Employer Benefits.—
- 23 (1) Covered employers.—Nothing in this 24 part shall be construed to discourage a covered em-25 ployer from providing an additional benefit in con-

- junction with leave described in section 113(a) to an eligible employee, in addition to the leave benefit provided to that employee. The additional employer benefit shall not reduce the amount of the leave benefit that an eligible employee receives under this part.
  - in this part shall be construed to discourage a voluntary plan employer from providing an additional benefit in conjunction with leave described in section 113(a) to an employee, in addition to the voluntary paid benefit provided to that employee. The additional employer benefit shall not reduce the amount of the voluntary paid benefit that an employee receives under a voluntary plan described in section 114.

### (b) Collective Bargaining.—

(1) More protective.—Nothing in this part shall be construed to diminish the obligation of a covered employer or voluntary plan employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater paid leave rights to employees than the rights established under this part (including rights established under a plan described in section 114).

1	(2) Less protective.—The rights established
2	for employees under this part (including rights es-
3	tablished under a plan described in section 114)
4	shall not be diminished by any collective bargaining
5	agreement or any employment benefit program or
6	plan.
7	SEC. 116. PROHIBITED ACTS BY EMPLOYER.
8	(a) Interference With Rights.—It shall be un-
9	lawful for any covered employer to interfere with, restrain,
10	or deny the exercise of or the attempt to exercise, any
11	right provided under this part.
12	(b) DISCRIMINATION.—It shall be unlawful for any
13	covered employer to discharge or in any other manner dis-
14	criminate against any individual for opposing any practice
15	made unlawful by this part.
16	(c) Interference With Proceedings or Inquir-
17	IES.—It shall be unlawful for any person to discharge or
18	in any other manner discriminate against any individual
19	because such individual—
20	(1) has filed any charge, or has instituted or
21	caused to be instituted any proceeding, under or re-
22	lated to this part;
23	(2) has given, or is about to give, any informa-
24	tion in connection with any inquiry or proceeding re-
25	lating to any right provided under this part; or

1	(3) has testified, or is about to testify, in any
2	inquiry or proceeding relating to any right provided
3	under this part.
4	SEC. 117. ENFORCEMENT.
5	(a) CIVIL ACTION BY EMPLOYEES.—
6	(1) Liability.—Any covered employer who vio-
7	lates section 116 shall be liable to any eligible em-
8	ployee affected—
9	(A) for damages equal to—
10	(i) the amount of—
11	(I) any wages, salary, employ-
12	ment benefits, or other compensation
13	denied or lost to such employee by
14	reason of the violation; or
15	(II) in a case in which wages,
16	salary, employment benefits, or other
17	compensation have not been denied or
18	lost to the employee, any actual mone-
19	tary losses sustained by the employee
20	as a direct result of the violation, such
21	as the cost of providing care, up to a
22	sum equal to 8 weeks of wages or sal-
23	ary for the employee;

1	(ii) the interest on the amount de-
2	scribed in clause (i) calculated at the pre-
3	vailing rate; and
4	(iii) an additional amount as liq-
5	uidated damages equal to the sum of the
6	amount described in clause (i) and the in-
7	terest described in clause (ii), except that
8	if a covered employer who has violated sec-
9	tion 116 proves to the satisfaction of the
10	court that the act or omission which vio-
11	lated section 116 was in good faith and
12	that the employer had reasonable grounds
13	for believing that the act or omission was
14	not a violation of section 116, such court
15	may, in the discretion of the court, reduce
16	the amount of the liability to the amount
17	and interest determined under clauses (i)
18	and (ii), respectively; and
19	(B) for such equitable relief as may be ap-
20	propriate, including employment, reinstatement,
21	and promotion.
22	(2) Right of action.—
23	(A) In general.—Except as provided in
24	subparagraph (B), an action to recover the
25	damages or equitable relief prescribed in para-

1	graph (1) may be maintained against any cov-
2	ered employer (including a public agency) in
3	any Federal or State court of competent juris-
4	diction by any 1 or more employees for and on
5	behalf of—
6	(i) the employees; or
7	(ii) the employees and other employ-
8	ees similarly situated.
9	(B) Limitation.—The right provided by
10	subparagraph (A) to bring an action by or on
11	behalf of any employee shall terminate—
12	(i) on the filing of a complaint by the
13	Secretary in an action under subsection
14	(b)(3) in which restraint is sought of any
15	further delay in the payment of the
16	amount described in paragraph (1)(A) to
17	such employee by an employer responsible
18	under paragraph (1) for the payment; or
19	(ii) on the filing of a complaint by the
20	Secretary in an action under paragraph (1)
21	or (2) of subsection (b) in which a recovery
22	is sought of the damages described in
23	paragraph (1)(A) owing to an eligible em-
24	ployee by an employer liable under para-
25	graph (1),

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

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

### (b) ACTIONS BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 116 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

#### (2) CIVIL ACTION.—

- (A) RIGHT OF ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).
- (B) Sums recovered.—Any sums recovered by the Secretary pursuant to this paragraph shall be held in a special deposit account

1	and shall be paid, on order of the Secretary, di-
2	rectly to each employee affected. Any such sums
3	not paid to an employee because of inability to
4	do so within a period of 3 years shall be depos-
5	ited into the Treasury of the United States as
6	miscellaneous receipts.
7	(3) ACTION FOR INJUNCTION BY THE SEC-
8	RETARY.—The district courts of the United States
9	shall have jurisdiction, for cause shown, in an action
10	brought by the Secretary—
11	(A) to restrain violations of section 116,
12	including the restraint of any withholding of
13	payment of wages, salary, employment benefits,
14	or other compensation, plus interest, found by
15	the court to be due to eligible employees; or
16	(B) to award such other equitable relief as
17	may be appropriate, including employment, re-
18	instatement, and promotion.
19	(4) Solicitor of Labor.—The Solicitor of
20	Labor may appear for and represent the Secretary
21	on any litigation brought under this subsection.
22	(c) Limitation.—
23	(1) Except as provided in paragraph (2), an ac-
24	tion may be brought under subsections (a) or (b) not

later than 2 years after the date of the last event

- 1 constituting the alleged violation for which the ac-2 tion is brought.
  - (2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 116, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.
    - (3) COMMENCEMENT.—In determining when an action is commenced by the Secretary for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

      (d) Investigative Authority.—
    - (1) IN GENERAL.—To ensure compliance with the provisions of this part, or any regulation or order issued under this part, the Secretary shall have, subject to paragraph (3), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).
    - (2) Obligation to keep and preserve Records.—Any covered employer shall make, keep, and preserve records pertaining to compliance with this part in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by

- the Secretary. The Secretary shall have access to the
  records for purposes of conducting audits.
- 3 (3) Required submissions generally lim-ITED TO AN ANNUAL BASIS.—The Secretary shall 5 not under the authority of this subsection require 6 any covered employer or any plan, fund, or program 7 to submit to the Secretary any books or records 8 more than once during any 12-month period, unless 9 the Secretary has reasonable cause to believe there 10 may exist a violation of this part or any regulation 11 or order issued pursuant to this part, or is inves-12 tigating a charge pursuant to subsection (b).
  - (4) Subpoena power.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

#### 18 SEC. 118. PENALTIES.

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

- 1 cation. Penalties collected under this subsection shall be
- 2 deposited in the Insurance Fund, notwithstanding the pro-
- 3 visions of title 31, United States Code and used to reim-
- 4 burse the covered employers involved for the amount of
- 5 the leave benefits.
- 6 (b) Criminal Penalties for False Statements
- 7 AND SOLICITATIONS.—Whoever—
- 8 (1) makes or causes to be made any false state-
- 9 ment in support of an application for leave benefits
- 10 under this part;
- 11 (2) knowingly presents or causes to be pre-
- sented any false written or oral material statement
- in support of any claim for leave benefits under this
- 14 part;
- 15 (3) knowingly solicits, receives, offers, pays, or
- accepts any rebate, refund, commission, preference,
- patronage, dividend, discount, or other consider-
- ation, whether in the form of money or otherwise, as
- compensation or inducement for soliciting a claimant
- to apply for leave benefits under this part, except to
- 21 the extent authorized by a law of the United States;
- 22 or
- 23 (4) knowingly assists, abets, solicits, or con-
- spires with any person to engage in an act that is
- prohibited under paragraph (1), (2), or (3),

- 1 shall be guilty of a felony and upon conviction shall be
- 2 fined under title 18, United States Code, or imprisoned
- 3 for not more than 5 years, or both.
- 4 SEC. 119. EDUCATION PROGRAMS.
- 5 (a) AUTHORITY.—The Secretary shall develop and
- 6 maintain a program of education concerning the rights
- 7 and leave benefits under this part.
- 8 (b) Notice to Employers.—The Secretary shall
- 9 provide to each covered employer a notice informing em-
- 10 ployees of the rights and leave benefits available under this
- 11 part. The notice shall be given by every covered employer
- 12 to each employee hired, and to each employee taking leave
- 13 as described in section 113(a).
- 14 SEC. 120. REGULATIONS.
- 15 The Secretary shall issue regulations to carry out this
- 16 part.
- 17 SEC. 121. EFFECTIVE DATE.
- 18 This part shall take effect on January 1, 2012, and
- 19 apply to periods of leave that commence on or after Janu-
- 20 ary 1, 2013.
- 21 PART 2—CIVIL SERVICE FAMILY AND MEDICAL
- 22 LEAVE INSURANCE PROGRAM
- 23 SEC. 131. PROGRAM DEFINITIONS.
- In this part:

(1) AGENCY.—The term "agency" means an 1 2 agency covered under subchapter V of chapter 63 of 3 title 5, United States Code. (2) AGENCY EMPLOYEE.—The term "agency 5 employee" means an employee who— 6 (A) meets the requirements of paragraph 7 (1) of section 6381 of title 5, United States 8 Code; and 9 (B) has earned wages with an agency for 10 12 of the last 18 months, prior to filing an ap-11 plication for leave benefits under this part. 12 SEC. 132. ESTABLISHMENT OF PROGRAM. 13 (a) IN GENERAL.—The Director of the Office of Personnel Management shall establish a Civil Service Family 14 15 and Medical Leave Insurance Program, and shall issue regulations providing for the implementation of the pro-16 17 gram. In issuing the regulations, the Director shall require that the Director shall provide, or that the agencies shall 18 19 provide, family and medical leave insurance benefits de-20 scribed in section 113 to agency employees. The regula-21 tions issued under this subsection shall include provisions

that are the same as regulations issued by the Secretary

to implement the statutory provisions of sections 113,

115, 119, and 120, except insofar as the Director may

determine, for good cause shown and stated together with

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1	the regulations, that a modification of the regulations
2	would be more effective for the implementation of the
3	rights and protections under those sections. The regula-
4	tions shall provide for appropriate remedies and proce-
5	dures for violations of this part.
6	(b) PAYMENT.—At the direction of the Director or
7	the head of an agency, as specified in the regulations, the
8	Managing Trustee shall pay funds from the Insurance
9	Fund for the leave benefits.
10	PART 3—FAMILY AND MEDICAL LEAVE
11	INSURANCE FUND
<ul><li>11</li><li>12</li></ul>	INSURANCE FUND SEC. 141. ESTABLISHMENT.
12	SEC. 141. ESTABLISHMENT.
12 13	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury
12 13 14 15	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Fam-
12 13 14 15 16	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Family and Medical Leave Insurance Fund. The Insurance
12 13 14 15 16	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Family and Medical Leave Insurance Fund. The Insurance Fund shall consist of such amounts as may be deposited
12 13 14 15 16 17	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Family and Medical Leave Insurance Fund. The Insurance Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this sec-
12 13 14 15 16 17	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Family and Medical Leave Insurance Fund. The Insurance Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this section.
12 13 14 15 16 17 18 19	SEC. 141. ESTABLISHMENT.  (a) IN GENERAL.—There is created in the Treasury of the United States a trust fund to be known as the Family and Medical Leave Insurance Fund. The Insurance Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this section.  (b) Appropriations to Insurance Fund.—

and each fiscal year thereafter, out of any moneys

in the Treasury not otherwise appropriated, amounts

equivalent to 100 percent of—

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(A) the family and medical leave premiums imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury or the Secretary's delegate under subtitle F of such Code after December 31, 2010, as determined by the Secretary of the Treasury by applying the applicable rates of premium payment under such sections to such wages, which wages shall be certified by the Commissioner of Social Security;

- (B) on the basis of the records of wages established and maintained by the Commissioner of the Social Security Administration in accordance with such reports;
- (C) the family and medical leave premiums imposed by section 1401(c) of such Code with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury or the Secretary's delegate on tax returns under subtitle F of such Code after December 31, 2009, as determined by the Secretary of the Treasury by applying the applicable rate of premium payment under

- such section 1401(c) to such self-employment income, which self-employment income shall be certified by the Commissioner of Social Security; and
  - (D) on the basis of the records of self-employment income established and maintained by the Commissioner of Social Security in accordance with such returns.
  - (2) Transferred from time to time from the general fund of the Treasury to the Insurance Fund. Such amounts shall be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in paragraph (1), paid to or deposited into the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than such premiums.
  - (3) INVESTMENTS.—All amounts transferred to the Insurance Fund under paragraph (2) shall be invested by the Managing Trustee referred to in section 312(c) in the same manner and to the same extent as the other assets of the Insurance Fund.

## l SEC. 142. BOARD OF TRUSTEES.

- 2 (a) Establishment and Membership.—With re-
- 3 spect to the Insurance Fund, there is established a body
- 4 to be known as the Board of Trustees of the Insurance
- 5 Fund which shall be composed of the Secretary of the
- 6 Treasury, the Secretary of Labor, the Commissioner of
- 7 Social Security, and the Secretary of Health and Human
- 8 Services, all ex officio, and of two members of the public
- 9 (both of whom may not be from the same political party),
- 10 who shall be nominated by the President, by and with the
- 11 advice and consent of the Senate.
- 12 (b) Terms and Vacancies.—Members of the Board
- 13 of Trustees shall serve for a period of 4 years. A member
- 14 of the Board of Trustees nominated and confirmed as a
- 15 member of the public to fill a vacancy occurring during
- 16 a term shall be nominated and confirmed only for the re-
- 17 mainder of such term. An individual nominated and con-
- 18 firmed as a member of the public may serve in such posi-
- 19 tion after the expiration of such member's term until the
- 20 earlier of the date on which the member's successor takes
- 21 office or the date on which a report of the Board is first
- 22 issued under paragraph (2) after the expiration of the
- 23 member's term.
- 24 (c) Managing Trustee and Secretary.—The
- 25 Secretary of the Treasury shall be the Managing Trustee

1	of the Board of Trustees. The Secretary of Labor shall
2	serve as the Secretary of the Board of Trustees.
3	(d) Basic Duties of the Board of Trustees.—
4	The Board of Trustees shall meet not less frequently than
5	once each calendar year. It shall be the duty of the Board
6	of Trustees to—
7	(1) hold the Insurance Fund;
8	(2) report to Congress not later than April 1 of
9	each year—
10	(A) on the operation and status of the In-
11	surance Fund during the fiscal year preceding
12	the fiscal year in which the report is made; and
13	(B) on the expected operation and status
14	of the Insurance Fund during the fiscal year in
15	which the report is made and the next 2 fiscal
16	years;
17	(3) report immediately to Congress whenever
18	the Board is of the opinion that the amount in the
19	Insurance Fund is unduly small; and
20	(4) review the general policies followed in man-
21	aging the Insurance Fund, and recommend changes
22	in such policies, including necessary changes in the
23	provisions of law that govern the way in which the
24	Insurance Fund is to be managed.

- 1 (e) REQUIREMENTS RELATING TO ANNUAL RE-
- 2 PORT.—The report provided for in subsection (d)(2) shall
- 3 include a statement of the assets of, and the disburse-
- 4 ments made from, the Insurance Fund during the fiscal
- 5 year preceding the fiscal year in which the report is made,
- 6 an estimate of the expected income to, and disbursements
- 7 to be made from, the Insurance Fund during the fiscal
- 8 year in which the report is made and each of the next
- 9 two fiscal years, and a statement of the actuarial status
- 10 of the Insurance Fund. Such report shall also include an
- 11 actuarial opinion by an appropriate employee of the De-
- 12 partment of Labor certifying that the techniques and
- 13 methodologies used for the report are generally accepted
- 14 within the actuarial profession and that the assumptions
- 15 and cost estimates used for the report are reasonable.
- 16 (f) Liability.—A person serving as a member of the
- 17 Board of Trustees shall not be considered to be a fiduciary
- 18 and shall not be personally liable for actions taken in such
- 19 capacity with respect to the Insurance Fund.
- 20 SEC. 143. INVESTMENT OF THE FAMILY AND MEDICAL
- 21 LEAVE INSURANCE FUND.
- 22 (a) Obligations.—It shall be the duty of the Man-
- 23 aging Trustee to invest such portion of the Insurance
- 24 Fund as is not, in the trustee's judgment, required to meet
- 25 current withdrawals. Such investments may be made only

- 1 in interest-bearing obligations of the United States or in
- 2 obligations guaranteed as to both principal and interest
- 3 by the United States.
- 4 (b) Acquisition.—The obligations referred to in
- 5 subsection (a) may be acquired—
- 6 (1) on original issue at the issue price; or
- 7 (2) by purchase of outstanding obligations at
- 8 the market price.
- 9 (c) Obligations Issued for Purchase by
- 10 Fund.—The purposes for which obligations of the United
- 11 States may be issued under chapter 31 of title 31, United
- 12 States Code, are extended to authorize the issuance at par
- 13 of public debt obligations for purchase by the Insurance
- 14 Fund. Such obligations issued for purchase by the Insur-
- 15 ance Fund shall have dates of maturity fixed with due re-
- 16 gard for the needs of the Insurance Fund. Such obliga-
- 17 tions shall bear interest at a rate equal to—
- 18 (1) except as provided in paragraph (2), the av-
- erage market yield (computed by the Managing
- Trustee on the basis of market quotations as of the
- 21 end of the calendar month preceding the date of
- such issue) on all marketable interest-bearing obliga-
- 23 tions of the United States forming a part of the
- 24 public debt that are not due or callable until after

- 1 the expiration of four years from the end of such
- 2 calendar month; or
- 3 (2) in a case in which such average market
- 4 yield is not a multiple of 0.1 percent, the multiple
- 5 of 0.1 percent nearest such market yield.
- 6 (d) Other Obligations.—The Managing Trustee
- 7 may purchase interest-bearing obligations of the United
- 8 States that are not described in subsection (c) or obliga-
- 9 tions guaranteed as to both principal and interest by the
- 10 United States, on original issue or at the market price,
- 11 only in cases in which the trustee determines that the pur-
- 12 chase of obligations described in this paragraph is in the
- 13 public interest.
- 14 (e) Disposition and Redemption of Obliga-
- 15 Tions.—Any obligations acquired by the Insurance Fund
- 16 (except public debt obligations issued exclusively to the In-
- 17 surance Fund) may be sold by the Managing Trustee at
- 18 the market price, and such public debt obligations may
- 19 be redeemed at par plus accrued interest.
- 20 (f) Crediting of Interest and Proceeds.—The
- 21 interest on, and the proceeds from the sale or redemption
- 22 of, any obligations held in the Insurance Fund shall be
- 23 credited to and form a part of the Insurance Fund.

## 1 SEC. 144. PAYMENTS FROM FAMILY AND MEDICAL LEAVE

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

#### 8 SEC. 145. ADMINISTRATIVE EXPENSES.

- 9 (a) AVAILABILITY OF INSURANCE FUND.—Under
- 10 regulations that shall be prescribed by the Secretary of
- 11 Labor, funds shall be made available from the Insurance
- 12 Fund in connection with the administration of this subtitle
- 13 and the administration of related provisions of the Inter-
- 14 nal Revenue Code of 1986 in the same manner and extent
- 15 as funds are made available from the trust funds referred
- 16 to in section 201(g) of the Social Security Act (42 U.S.C.
- 17 401(g)) in connection with the administration of the rel-
- 18 evant provisions referred to in such section.
- 19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
- 20 are authorized to be made available for expenditure such
- 21 amounts as Congress may determine to be appropriate to
- 22 pay the costs of the part of the administration of this sub-
- 23 title (including start-up costs, technical assistance, and
- 24 costs for small employers electing to participate in the
- 25 Family and Medical Leave Insurance Program) for which
- 26 the Secretary of Labor is responsible.

1	(c) Gifts and Bequests.—The Managing Trustee
2	may accept on behalf of the United States money gifts
3	and bequests made unconditionally to the Insurance Fund
4	for the benefit of the Insurance Fund or any activity fi-
5	nanced through the Insurance Fund and such gifts and
6	bequests shall be deposited into the Insurance Fund.
7	(d) Processing of Tax Data.—Section 232 of the
8	Social Security Act (42 U.S.C. 432) shall apply with re-
9	spect to this subtitle, in the same manner and to the same
10	extent as such section applies with respect to title II of
11	the Social Security Act (42 U.S.C. 401 et seq.).
12	SEC. 146. AMENDMENTS TO THE INTERNAL REVENUE CODE
13	OF 1986.
13	Or 1900.
14	(a) Employee Premiums.—Section 3101 of the In-
14	(a) Employee Premiums.—Section 3101 of the In-
14 15	(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employ-
<ul><li>14</li><li>15</li><li>16</li></ul>	(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	<ul> <li>(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—</li> <li>(1) by redesignating subsection (c) as sub-</li> </ul>
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li></ul>	<ul> <li>(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—</li> <li>(1) by redesignating subsection (c) as subsection (d); and</li> </ul>
14 15 16 17 18 19	<ul> <li>(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended— <ul> <li>(1) by redesignating subsection (c) as subsection (d); and</li> <li>(2) by inserting after subsection (c) the following</li> </ul> </li> </ul>
14 15 16 17 18 19 20	<ul> <li>(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended— <ul> <li>(1) by redesignating subsection (c) as subsection (d); and</li> <li>(2) by inserting after subsection (c) the following new subsection:</li> </ul> </li> </ul>
14 15 16 17 18 19 20 21	(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—  (1) by redesignating subsection (c) as subsection (d); and  (2) by inserting after subsection (c) the following new subsection:  "(c) Family and Medical Leave Premiums.—
14 15 16 17 18 19 20 21 22	(a) Employee Premiums.—Section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended—  (1) by redesignating subsection (c) as subsection (d); and  (2) by inserting after subsection (e) the following new subsection:  "(e) Family and Medical Leave Premiums.—  "(1) In General.—In addition to the taxes im-

1	age of the wages (as defined in section 3121(a)) re-
2	ceived by the individual with respect to employment
3	(as defined in section 3121(b)).
4	"(2) Applicable percentage.—For purposes
5	of paragraph (1), the applicable percentage is—
6	"(A) 0.1 percent with respect to periods of
7	employment by a small employer (as defined in
8	section 103(b) of the Family Leave Insurance
9	Act) electing to participate in the Family and
10	Medical Leave Insurance Program (established
11	under section 112 of such Act); and
12	"(B) 0.2 percent with respect to all other
13	periods of employment.
14	"(3) Exception for certain employ-
15	MENT.—Paragraph (1) shall not apply with respect
16	to a period of employment—
17	"(A) by an employer during which the Sec-
18	retary of Labor determines the employer has in
19	effect a plan which is equivalent to or better
20	than the Family and Medical Leave Insurance
21	Program (established under section 112 of the
22	Family Leave Insurance Act); or
23	"(B) by a small employer (as so defined)
24	who has not elected to participate in such Pro-
25	gram.

1	For purposes of the preceding sentence, the Sec-
2	retary of Labor shall prescribe such regulations as
3	may be appropriate or necessary, including regula-
4	tions requiring documentation of employer pro-
5	grams.".
6	(b) Employer Premiums.—Section 3111 of the In-
7	ternal Revenue Code of 1986 (relating to tax on employ-
8	ers) is amended—
9	(1) by redesignating subsection (c) as sub-
10	section (d); and
11	(2) by inserting after subsection (c) the fol-
12	lowing new subsection:
13	"(c) Family and Medical Leave Premiums.—
14	"(1) In general.—In addition to the excise
15	taxes imposed by subsections (a) and (b), there is
16	imposed on every employer a family and medical
17	leave premium, with respect to having individuals in
18	such employer's employ, equal to the applicable per-
19	centage of the wages (as defined in section 3121(a))
20	paid by such employer with respect to employment
21	(as defined in section 3121(b)).
22	"(2) Applicable percentage.—For purposes
23	of paragraph (1), the applicable percentage is—
24	"(A) 0.1 percent with respect to small em-
25	ployers (as defined in section 103(b) of the

1	Family Leave Insurance Act) electing to par-
2	ticipate in the Family and Medical Leave Insur-
3	ance Program (established under section 112 of
4	such Act); and
5	"(B) 0.2 percent with respect to all other
6	employers.
7	"(3) Exception for certain employers.—
8	Paragraph (1) shall not apply for any period with
9	respect to an employer to whom paragraph (1) of
10	section 3101(c) does not apply by reason of para-
11	graph (3) thereof.".
12	(c) Self-Employed Premiums.—Section 1401 of
13	the Internal Revenue Code of 1986 is amended—
14	(1) by redesignating subsection (c) as sub-
15	section (d); and
16	(2) by inserting after subsection (b) the fol-
17	lowing new subsection:
18	"(c) Family and Medical Leave Premiums.—
19	"(1) In general.—In addition to the taxes im-
20	posed by subsections (a) and (b), there is imposed
21	for each taxable year, on the self-employment income
22	of every individual, a family and medical leave pre-
23	mium equal to 0.4 percent of the amount of the self-

1	"(2) Exception for certain employers.—
2	Paragraph (1) shall not apply for any period with
3	respect to an employer who has not elected to par-
4	ticipate in the Family and Medical Leave Insurance
5	Program (established under section 112 of the Fam-
6	ily Leave Insurance Act).".
7	(d) Conforming Amendments to Social Secu-
8	RITY ACT.—Section 201 of the Social Security Act (42
9	U.S.C. 401) is amended—
10	(1) by striking "sections 3101(b) and 3111(b)"
11	both places it appears in subsection (a)(3) and in-
12	serting "sections 3101(b), 3101(c), 3111(b), and
13	3111(e)", and
14	(2) by striking "section 1401(b)" both places it
15	appears in subsection (a)(4) and inserting "sections
16	1401(b) and 1401(c)".
17	(e) Effective Date.—
18	(1) Employment premiums.—The amend-
19	ments made by subsections (a), (b), and (d)(1) shall
20	apply to wages paid after December 31, 2010.
21	(2) Self-employment premiums.—The
22	amendments made by subsections (c) and (d)(2)
23	shall apply to taxable years beginning after Decem-
24	ber 31, 2010.

# 1 Subtitle B—Family and Medical

# Leave Enhancement Act

2	Leave Ennancement Act
3	SEC. 151. SHORT TITLE.
4	This subtitle may be cited as the "Family and Med-
5	ical Leave Enhancement Act".
6	SEC. 152. ELIGIBLE EMPLOYEE.
7	Section 101(2)(B)(ii) of the Family and Medical
8	Leave Act of 1993 (29 U.S.C. 2611(2)(B)(ii)) is amended
9	by striking "less than 50" each place it appears and in-
10	serting "fewer than 25".
11	SEC. 153. ENTITLEMENT TO ADDITIONAL LEAVE UNDER
12	THE FMLA FOR PARENTAL INVOLVEMENT
13	AND FAMILY WELLNESS.
14	(a) Leave Requirement.—Section 102(a) of the
15	Family and Medical Leave Act of 1993 (29 U.S.C.
16	2612(a)) is amended by adding at the end the following
17	new paragraph:
18	"(6) Entitlement to additional leave for
19	PARENTAL INVOLVEMENT AND FAMILY
20	WELLNESS.—
21	"(A) In general.—Subject to subpara-
22	graph (B) and section 103(g), an eligible em-
23	ployee shall be entitled to leave under this para-
24	graph to—

1	"(i) participate in or attend an activ-
2	ity that is sponsored by a school or com-
3	munity organization and relates to a pro-
4	gram of the school or organization that is
5	attended by a son or daughter or a grand-
6	child of the employee; or
7	"(ii) meet routine family medical care
8	needs, including for medical and dental ap-
9	pointments of the employee or a son,
10	daughter, spouse, or grandchild of the em-
11	ployee, or to attend to the care needs of el-
12	derly individuals who are related to the eli-
13	gible employee, including visits to nursing
14	homes and group homes.
15	"(B) Limitations.—
16	"(i) In general.—An eligible em-
17	ployee is entitled to—
18	"(I) not to exceed 4 hours of
19	leave under this paragraph during any
20	30-day period; and
21	"(II) not to exceed 24 hours of
22	leave under this paragraph during any
23	12-month period.
24	"(ii) Coordination rule.—Leave
25	under this paragraph shall be in addition

1	to any leave provided under any other
2	paragraph of this subsection.
3	"(C) Definitions.—As used in this para-
4	graph:
5	"(i) School.—The term 'school'
6	means an elementary school or secondary
7	school (as such terms are defined in sec-
8	tion 9101 of the Elementary and Sec-
9	ondary Education Act of 1965 (20 U.S.C.
10	7801)), a Head Start program assisted
11	under the Head Start Act (42 U.S.C. 9831
12	et seq.), or a child care facility.
13	"(ii) Community organization.—
14	The term 'community organization' means
15	a private nonprofit organization that is
16	representative of a community or a signifi-
17	cant segment of a community and provides
18	activities for individuals described in sub-
19	paragraph (A) or (B) of section 101(12),
20	such as a scouting or sports organiza-
21	tion.".
22	(b) Schedule.—Section 102(b)(1) of such Act (29
23	U.S.C. 2612(b)(1)) is amended by inserting after the third
24	sentence the following new sentence: "Leave under sub-

- 1 section (a)(6) may be taken intermittently or on a reduced
- 2 leave schedule.".
- 3 (c) Substitution of Paid Leave.—Section
- 4 102(d)(2) of such Act (29 U.S.C. 2612(d)(2)) is amended
- 5 by adding at the end the following new subparagraph:

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

1	limit this substitution or impose any additional
2	terms and conditions on such leave that are
3	more stringent on the employee than the terms
4	and conditions set forth in this Act.".
5	(d) Notice.—Section 102(e) of such Act (29 U.S.C.
6	2612(e)) is amended by adding at the end the following
7	new paragraph:
8	"(4) Notice relating to parental in-
9	VOLVEMENT AND FAMILY WELLNESS LEAVE.—In
10	any case in which an employee requests leave under
11	paragraph (6) of subsection (a), the employee
12	shall—
13	"(A) provide the employer with not less
14	than 7 days' notice or as much notice as is
15	practicable before the date the leave is to be
16	taken, of the employee's intention to take leave
17	under such paragraph; and
18	"(B) in the case of leave to be taken under
19	subparagraph (A)(ii), make a reasonable effort
20	to schedule the leave so as not to disrupt un-
21	duly the operations of the employer, subject to
22	the approval of the health care provider in-
23	volved (if any).".

- 1 (e) Certification.—Section 103 of such Act (29
- 2 U.S.C. 2613) is amended by adding at the end the fol-
- 3 lowing new subsection:
- 4 "(g) CERTIFICATION RELATED TO PARENTAL IN-
- 5 VOLVEMENT AND FAMILY WELLNESS LEAVE.—An em-
- 6 ployer may require that a request for leave under section
- 7 102(a)(6) be supported by a certification issued at such
- 8 time and in such manner as the Secretary may by regula-
- 9 tion prescribe.".
- 10 (f) Definition of Grandchild.—Section 101 of
- 11 the Family and Medical Leave Act of 1993 (29 U.S.C.
- 12 2611) is amended by adding at the end the following new
- 13 paragraph:
- 14 "(20) Grandchild.—The term 'grandchild'
- means a son or daughter of an employee's son or
- daughter.".
- 17 SEC. 154. ENTITLEMENT OF FEDERAL EMPLOYEES TO
- 18 LEAVE FOR PARENTAL INVOLVEMENT AND
- 19 FAMILY WELLNESS.
- 20 (a) Leave Requirement.—Section 6382(a) of title
- 21 5, United States Code, is amended by adding at the end
- 22 the following new paragraph:
- 23 "(5)(A) Subject to subparagraph (B)(i) and section
- 24 6383(f), an employee shall be entitled to leave under this
- 25 paragraph to—

1	"(i) participate in or attend an activity that is
2	sponsored by a school or community organization
3	and relates to a program of the school or organiza-
4	tion that is attended by a son or daughter or a
5	grandchild of the employee; or
6	"(ii) meet routine family medical care needs, in-
7	cluding for medical and dental appointments of a
8	son, daughter, spouse, or grandchild of the em-
9	ployee, or to attend to the care needs of elderly indi-
10	viduals who are related to the eligible employee, in-
11	cluding visits to nursing homes and group homes.
12	"(B)(i) An employee is entitled to—
13	"(I) not to exceed 4 hours of leave under this
14	paragraph during any 30-day period; and
15	"(II) not to exceed 24 hours of leave under this
16	paragraph during any 12-month period.
17	"(ii) Leave under this paragraph shall be in addition
18	to any leave provided under any other paragraph of this
19	subsection.
20	"(C) For the purpose of this paragraph—
21	"(i) the term 'school' means an elementary
22	school or secondary school (as such terms are de-
23	fined in section 9101 of the Elementary and Sec-

ondary Education Act of 1965), a Head Start pro-

1	gram assisted under the Head Start Act, and a child
2	care facility licensed under State law; and
3	"(ii) the term 'community organization' means
4	a private nonprofit organization that is representa-
5	tive of a community or a significant segment of a
6	community and provides activities for individuals de-
7	scribed in subparagraph (A) or (B) of section
8	6381(6), such as a scouting or sports organization.".
9	(b) Schedule.—Section 6382(b)(1) of such title is
10	amended—
11	(1) by inserting after the second sentence the
12	following new sentence: "Leave under subsection
13	(a)(5) may be taken intermittently or on a reduced
14	leave schedule."; and
15	(2) in the last sentence, by striking "involved,"
16	and inserting "involved (or, in the case of leave
17	under subsection (a)(5), for purposes of any 30-day
18	or 12-month period),".
19	(c) Substitution of Paid Leave.—Section
20	6382(d) of such title is amended—
21	(1) by inserting "(1)" after the subsection des-
22	ignation; and
23	(2) by adding at the end the following:
24	"(2) An employee may elect to substitute for leave
25	under subsection (a)(5), any of the employee's accrued or

- 1 accumulated annual or sick leave under subchapter I. If
- 2 the employee elects to substitute accumulated annual or
- 3 sick leave for leave provided under subsection (a)(5), the
- 4 employing agency shall not restrict or limit this substi-
- 5 tution or impose any additional terms and conditions on
- 6 such leave that are more stringent on the employee than
- 7 the terms and conditions set forth in this subchapter.".
- 8 (d) Notice.—Section 6382(e) of such title is amend-
- 9 ed by adding at the end the following new paragraph:
- 10 "(4) In any case in which an employee requests leave
- 11 under paragraph (5) of subsection (a), the employee
- 12 shall—
- 13 "(A) provide the employing agency with not less
- than 7 days' notice, before the date the leave is to
- be taken, of the employee's intention to take leave
- 16 under such paragraph; and
- 17 "(B) in the case of leave to be taken under sub-
- paragraph (A)(ii), make a reasonable effort to
- schedule the leave so as not to disrupt unduly the
- operations of the employer, subject to the approval
- of the health care provider involved (if any).".
- (e) Certification.—Section 6383(f) of such title is
- 23 amended by striking "6382(a)(3)" and inserting "para-
- 24 graph (3) or (5) of section 6382(a)".

1	(f) Definition of Grandchild.—Section 6381 of
2	title 5, United States Code, is amended—
3	(1) in paragraph (11), by striking "and" at the
4	end;
5	(2) in paragraph (12), by striking the period at
6	the end and inserting "; and"; and
7	(3) by adding at the end the following new
8	paragraph:
9	"(13) the term 'grandchild' means a son or
10	daughter of an employee's son or daughter.".
11	Subtitle C—Domestic Violence
12	Leave Act
13	SEC. 161. SHORT TITLE.
14	This subtitle may be cited as the "Domestic Violence
15	Leave Act''.
16	SEC. 162. ENTITLEMENT TO LEAVE FOR DOMESTIC VIO-
17	LENCE, SEXUAL ASSAULT, OR STALKING.
18	(a) Authority for Leave.—Section 102(a)(1) of
19	the Family and Medical Leave Act of 1993 (29 U.S.C.
20	2612(a)(1)) is amended by adding at the end the fol-
21	lowing:
22	"(F) In order to care for the family mem-
23	ber of the employee, if such family member is
24	addressing domestic violence, sexual assault, or
25	stalking and their effects.

1 "(G) Because the employee is addressing 2 domestic violence, sexual assault, or stalking 3 and their effects, the employee is unable to per-4 form any of the functions of the position of 5 such employee.". 6 (b) Definitions.—Section 101 of the Family and 7 Medical Leave Act of 1993 (29 U.S.C. 2611) (as amended 8 by section 193(f)) is further amended by adding at the end the following: 10 "(21) Domestic violence.—The term 'domes-11 tic violence' has the meaning given such term in sec-12 tion 40002 of the Violence Against Women Act of 13 1994 (42 U.S.C. 13925), and includes dating vio-14 lence, as such term is defined in such section. 15 "(22) Sexual assault.—The term 'sexual as-16 sault' has the meaning given that term in section 17 40002 of the Violence Against Women Act of 1994 18 (42 U.S.C. 13925). 19 "(23) STALKING.—The term 'stalking' has the 20 meaning given such term in section 40002 of the Vi-21 olence Against Women Act of 1994 (42 U.S.C. 22 13925). 23 "(24) Addressing domestic violence, sex-24

UAL ASSAULT, OR STALKING AND THEIR EFFECTS.—

1	The term 'addressing domestic violence, sexual as-
2	sault, or stalking and their effects' means—
3	"(A) seeking medical attention for or re-
4	covering from injuries caused by domestic vio-
5	lence, sexual assault, or stalking;
6	"(B) seeking legal assistance or remedies,
7	including communicating with the police or an
8	attorney, or participating in any legal pro-
9	ceeding related to domestic violence, sexual as-
10	sault, or stalking;
11	"(C) attending support groups for victims
12	of domestic violence, sexual assault, or stalking;
13	"(D) obtaining psychological counseling re-
14	lated to experiences of domestic violence, sexual
15	assault, or stalking;
16	"(E) participating in safety planning and
17	other actions to increase safety from future do-
18	mestic violence, sexual assault, or stalking, in-
19	cluding temporary or permanent relocation; and
20	"(F) participating in any other activity ne-
21	cessitated by domestic violence, sexual assault,
22	or stalking which must be undertaken during
23	hours of employment.
24	"(25) Family Member.—The term 'family
25	member', used with respect to a person, means an

- 1 individual who is a spouse, domestic partner, parent,
- 2 son or daughter (including an adult son or daugh-
- 3 ter) of that person.".
- 4 (c) Intermittent or Reduced Leave.—Section
- 5 102(b)(1) of the Family and Medical Leave Act of 1993
- 6 (29 U.S.C. 2612(b)(1)) (as amended by section 193(b))
- 7 is further amended by inserting before the last sentence:
- 8 "Subject to subsection (e)(4) and 103(g), leave under sub-
- 9 paragraph (F) or (G) of subsection (a)(1) may be taken
- 10 by an employee intermittently or on a reduced leave sched-
- 11 ule.".
- 12 (d) Paid Leave.—Section 102(d)(2)(B) of the Fam-
- 13 ily and Medical Leave Act of 1993 (29 U.S.C.
- 14 2612(d)(2)(B)) is amended by inserting at the end the fol-
- 15 lowing: "An eligible employee may elect to substitute any
- 16 of the accrued paid vacation leave, personal leave, family
- 17 leave, or medical or sick leave of the employee for leave
- 18 provided under subparagraph (F) or (G) of subsection
- 19 (a)(1) for any part of the 12-week period of such leave
- 20 under such subsection, except that nothing in this title
- 21 shall require an employer to provide paid sick leave or paid
- 22 medical leave in any situation in which such employer
- 23 would not normally provide any such paid leave.".
- 24 (e) Notice.—Section 102(e) of the Family and Med-
- 25 ical Leave Act of 1993 (29 U.S.C. 2612(e)) (as amended

by section 193(d)), is further amended by adding at the 2 end the following: 3 "(5) Notice for leave due to domestic vi-OLENCE, SEXUAL ASSAULT, OR STALKING.—In any 5 case in which the necessity for leave under subpara-6 graph (F) or (G) of subsection (a)(1) is foreseeable 7 based on a scheduled appointment or planned activ-8 ity to address domestic violence, sexual assault, or 9 stalking and their effects, the employee shall provide 10 such notice to the employer as is reasonable and 11 practicable.". 12 (f) CERTIFICATION AND CONFIDENTIALITY.—Section 103 of the Family and Medical Leave Act of 1993 (29 14 U.S.C. 2613) (as amended by section 193(e)) is further 15 amended— 16 (1) in the title, by adding before the period the 17 following: "; confidentiality"; and 18 (2) by adding at the end the following: 19 "(h) CERTIFICATION RELATED TO DOMESTIC VIO-LENCE, SEXUAL ASSAULT, OR STALKING.— 20 21 "(1) IN GENERAL.—In determining if an em-22 ployee meets the requirements of subparagraph (F) 23 or (G) of section 102(a)(1), the employer of an em-

ployee may require the employee to provide written

certification. Certification under this paragraph shall be sufficient if it includes—

"(A) documentation of the domestic violence, sexual assault, or stalking, such as police or court records, or documentation of the domestic violence, sexual assault, or stalking from a shelter worker, attorney, clergy, or medical or other professional from whom the employee or family member of the employee has sought assistance in addressing domestic violence, sexual assault, or stalking and their effects;

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

"(C) at the election of the employee, where documentation described in subparagraph (A) and corroborating evidence described in subparagraph (B) is not available, a written statement describing the domestic violence, sexual assault, or stalking and their effects.

1	"(2) Confidentiality.—All evidence of do-
2	mestic violence, sexual assault, or stalking provided
3	to an employer under this subsection, including an
4	employee's statement, any corroborating evidence,
5	and the fact that an employee has requested leave
6	for the purpose of addressing domestic violence, sex-
7	ual assault, or stalking and their effects, shall be re-
8	tained in the strictest confidence by the employer,
9	except to the extent consented to by the employee
10	where disclosure is necessary to—
11	"(A) protect the safety of the employee or
12	family member of the employee; or
13	"(B) assist in documenting domestic vio-
14	lence, sexual assault, or stalking for a court or
15	law enforcement agency.".
16	(g) Table of Contents.—The table of contents in
17	section 1(b) of the Family and Medical Leave Act of 1993
18	(29 U.S.C. prec. 2601) is amended by striking the item
19	relating to section 103 and inserting the following:
	"103. Certification; confidentiality.".
20	SEC. 163. INCLUSION OF SAME-SEX SPOUSES AND DOMES-
21	TIC PARTNERS.
22	(a) Definitions.—
23	(1) Inclusion of same-sex spouses.—Sec-
24	tion 101(13) of the Family and Medical Leave Act
25	of 1993 (29 U.S.C. 2611(13)) is amended, by insert-

- ing ", and, notwithstanding section 7 of title I,
  United States Code, includes a spouse of the same
  sex as the employee as determined under applicable
  State law" before the period.
  - (2) Inclusion Children of a domestic Partner.—Section 101(12) of such Act (29 U.S.C. 2611(12)) is amended by inserting "a child of an individual's domestic partner," after "a legal ward,".
  - (3) Inclusion domestic partners.—Section 101 of such Act (as amended by section 162) is further amended by adding at the end the following:
  - "(25) Domestic Partner.—The term 'domestic partner' means—
    - "(A) the person recognized as the domestic partner of the employee under any domestic partner registry or civil union laws of the State or political subdivision of a State where the employee resides; or
    - "(B) in the case of an unmarried employee who resides in a State where a person cannot marry a person of the same sex under the laws of the State, a single, unmarried adult person of the same sex as the employee who is in a committed, intimate relationship with the employee, is not a domestic partner to any other

1	person, and who is designated to the employer
2	by such employee as that employee's domestic
3	partner.".
4	(b) Leave Requirement.—Section 102 of the Fam-
5	ily and Medical Leave Act of 1993 (29 U.S.C. 2612) is
6	amended—
7	(1) in subsection $(a)(1)(C)$ , by striking
8	"spouse," both places it appears and inserting
9	"spouse or domestic partner,";
10	(2) in subsection (a)(1)(E), by striking spouse,
11	and inserting "spouse or domestic partner,";
12	(3) in subsection (a)(3), by striking "spouse,"
13	and inserting "spouse or domestic partner,";
14	(4) in subsection $(e)(2)(A)$ , by inserting "do-
15	mestic partner," after "spouse,";
16	(5) in subsection (e)(3), by inserting "domestic
17	partner," after "spouse,"; and
18	(6) in subsection (f)—
19	(A) in the subsection heading, by inserting
20	"OR DOMESTIC PARTNERS" after "Spouses";
21	(B) in paragraph (1), by striking "a hus-
22	band and wife" and inserting "both spouses or
23	both domestic partners";

1	(C) in paragraph (2)(A), by striking "that
2	husband and wife" and inserting "spouses or
3	both domestic partners"; and
4	(D) in paragraph (2)(B), by striking "the
5	husband and wife" and inserting "both spouses
6	or both domestic partners".
7	(c) Certification.—Section 103 of the Family and
8	Medical Leave Act of 1993 (29 U.S.C. 2613) is amend-
9	$\operatorname{ed}$ —
10	(1) in subsection (a), by inserting "domestic
11	partner," after "spouse,";
12	(2) in subsection (b)(4)(A), by inserting "do-
13	mestic partner," after "spouse," both places it ap-
14	pears; and
15	(3) in subsection (b)(7), by inserting "domestic
16	partner," after "spouse,".
17	(d) Employment and Benefits Protection.—
18	Section 104(c)(3) of the Family and Medical Leave Act
19	of 1993 (29 U.S.C. 2614(c)(3)) is amended—
20	(1) in subparagraph (A)(i), by inserting "do-
21	mestic partner," after "spouse,"; and
22	(2) in subparagraph (C)(ii), by inserting "do-
23	mestic partner," after "spouse,".

1	SEC. 164. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOY-
2	EES FOR DOMESTIC VIOLENCE, SEXUAL AS-
3	SAULT, OR STALKING.
4	(a) Authority for Leave.—Section 6382(a)(1) of
5	title 5, United States Code is amended by adding at the
6	end the following:
7	"(F) In order to care for the family member of
8	the employee, if such family member is addressing
9	domestic violence, sexual assault, or stalking and
10	their effects.
11	"(G) Because the employee is addressing do-
12	mestic violence, sexual assault, or stalking and their
13	effects, the employee is unable to perform any of the
14	functions of the position of such employee.".
15	(b) Definitions.—Section 6381 of title 5, United
16	States Code (as amended by section 154(f)) is amended—
17	(1) at the end of paragraph (10), by striking
18	"and";
19	(2) in paragraph (11), by striking the period
20	and inserting a semicolon; and
21	(3) by adding at the end the following:
22	"(14) the terms 'domestic violence', 'sexual as-
23	sault', and 'stalking' all have the meaning given such
24	terms in section 40002 of the Violence Against
25	Women Act of 1994 (42 U.S.C. 13925), and the

1	term 'domestic violence' includes dating violence, as
2	such term is defined in such section;
3	"(15) the term 'addressing domestic violence,
4	sexual assault, or stalking and their effects'
5	means—
6	"(A) seeking medical attention for or re-
7	covering from injuries caused by domestic vio-
8	lence, sexual assault, or stalking;
9	"(B) seeking legal assistance or remedies,
10	including communicating with the police or an
11	attorney, or participating in any legal pro-
12	ceeding related to domestic violence, sexual as-
13	sault, or stalking;
14	"(C) attending support groups for victims
15	of domestic violence, sexual assault, or stalking;
16	"(D) obtaining psychological counseling re-
17	lated to experiences of domestic violence, sexual
18	assault, or stalking;
19	"(E) participating in safety planning and
20	other actions to increase safety from future do-
21	mestic violence, sexual assault, or stalking, in-
22	cluding temporary or permanent relocation; and
23	"(F) participating in any other activity ne-
24	cessitated by domestic violence, sexual assault,

- or stalking which must be undertaken during hours of employment; and "(16) the term 'family member', used with re-
- spect to a person, means an individual who is a spouse, domestic partner, parent, son or daughter (including an adult son or daughter) of that person;".
- 8 (c) Intermittent or Reduced Leave.—Section 9 6382(b) of title 5, United States Code, (as amended by 10 section 154(b)) is further amended by adding at the end
- 12 "(3) Leave under subparagraph (E) or (F) of 13 subsection (a)(1) may be taken by an employee 14 intermittently or on a reduced leave schedule. The 15 taking of leave intermittently or on a reduced leave 16 schedule pursuant to this paragraph shall not result 17 in a reduction in the total amount of leave to which 18 the employee is entitled under subsection (a) beyond 19 the amount of leave actually taken.".
- 20 (d) OTHER LEAVE.—Section 6382(d) of title 5, 21 United States Code, (as amended by section 154(c)) is fur-22 ther amended by striking "(C), or (D)" and inserting 23 "(C), (D), (E), or (F)".

the following:

- 1 (e) Notice.—Section 6282(e) of title 5, United
- 2 States Code, is amended by adding at the end the fol-
- 3 lowing:
- 4 "(3) In any case in which the necessity for
- 5 leave under subparagraph (F) or (G) of subsection
- 6 (a)(1) is foreseeable based on a scheduled appoint-
- 7 ment or planned activity to address domestic vio-
- 8 lence, sexual assault, or stalking and their effects,
- 9 the employee shall provide such notice to the em-
- ploying agency as is reasonable and practicable.".
- 11 (f) CERTIFICATION.—Section 6383 of title 5, United
- 12 States Code, is amended by adding at the end the fol-
- 13 lowing:
- 14 "(f) In determining if an employee meets the require-
- 15 ments of subparagraph (E) or (F) of section 6382(a)(1),
- 16 the employing agency of an employee may require the em-
- 17 ployee to provide written certification. Certification under
- 18 this subsection shall be sufficient if it includes—
- "(1) documentation of the domestic violence,
- sexual assault, or stalking, such as police or court
- 21 records, or documentation of the domestic violence,
- sexual assault, or stalking from a shelter worker, at-
- torney, clergy, or medical or other professional from
- 24 whom the employee or family member of the em-

- ployee has sought assistance in addressing domestic
  violence, sexual assault, or stalking and their effects;
- "(2) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, sexual assault, or stalking, such as photographs or torn or bloody clothes; or
  - "(3) at the election of the employee, where documentation described in paragraph (1) and corroborating evidence described in paragraph (2) is not available, a written statement describing the domestic violence, sexual assault, or stalking and their effects.".
- 15 (g) Confidentiality.—Section 6383 of title 5, 16 United States Code, as amended by subsection (f), is 17 amended—
- 18 (1) in the section heading, by adding before the period the following: "; confidentiality"; and
- 20 (2) by adding at the end the following:
- "(g) All evidence of domestic violence, sexual assault, or stalking provided to an employing agency under this subsection, including an employee's statement, any cor-
- 24 roborating evidence, and the fact that an employee has
- 25 requested leave for the purpose of addressing domestic vio-

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1	lence, sexual assault, or stalking and their effects, shall
2	be retained in the strictest confidence by the employing
3	agency, except to the extent consented to by the employee
4	where disclosure is necessary to—
5	"(1) protect the safety of the employee or fam-
6	ily member of the employee; or
7	"(2) assist in documenting domestic violence,
8	sexual assault, or stalking for a court or law enforce-
9	ment agency.".
10	(h) Table of Sections.—The table of sections for
11	chapter 63 of title 5, United States Code, is amended by
12	striking the item relating to section 6383 and inserting
13	the following:
	"6383. Certification; confidentiality.".
14	SEC. 165. INCLUSION OF SAME-SEX SPOUSES AND DOMES-
15	TIC PARTNERS FOR LEAVE FOR FEDERAL EM-
16	PLOYEES.
17	(a) Definitions.—Section 6381 of title 5, United
18	States Code, (as amended by section 164) is further
19	amended—
20	(1) in paragraph (6), by inserting "a child of
21	an individual's domestic partner," after "a legal
22	ward,"; and
23	(2) by adding at the end the following:
18 19	States Code, (as amended by section 164) is amended—

wife, as the case may be, and, notwithstanding sec-

1	tion 7 of title I, United States Code, includes a
2	spouse of the same sex as the employee as deter-
3	mined under applicable State law; and
4	"(18) the term 'domestic partner' means—
5	"(A) the person recognized as the domestic
6	partner of the employee under any domestic
7	partner registry or civil union laws of the State
8	or political subdivision of a State where the em-
9	ployee resides; or
10	"(B) in the case of an unmarried employee
11	who resides in a State where a person cannot
12	marry a person of the same sex under the laws
13	of the State, a single, unmarried adult person
14	of the same sex as the employee who is in a
15	committed, intimate relationship with the em-
16	ployee, is not a domestic partner to any other
17	person, and who is designated to the employing
18	agency by such employee as that employee's do-
19	mestic partner.".
20	(b) Leave Requirement.—Section 6382 of title 5
21	United States Code, is further amended—
22	(1) in subsection $(a)(1)(C)$ , by striking
23	"spouse," both places it appears and inserting
24	"spouse or domestic partner,";

1	(2) in subsection (a)(3), by striking "spouse,"
2	and inserting "spouse or domestic partner,"; and
3	(3) in subsection $(e)(2)(A)$ , by inserting "do-
4	mestic partner," after "spouse,".
5	(c) Certification.—Section 6383 of title 5, United
6	States Code, is further amended—
7	(1) in subsection (a), by inserting "domestic
8	partner," after "spouse,"; and
9	(2) in subsection $(b)(4)(A)$ , by inserting "do-
10	mestic partner," after "spouse," both places it ap-
11	pears.
12	Subtitle D—Healthy Families Act
13	SEC. 171. SHORT TITLE.
13 14	SEC. 171. SHORT TITLE.  This subtitle may be cited as the "Healthy Families"
14	
14	This subtitle may be cited as the "Healthy Families
14 15	This subtitle may be cited as the "Healthy Families Act".
14 15 16	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.
14 15 16 17	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.  The purposes of this subtitle are—
14 15 16 17	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.  The purposes of this subtitle are—  (1) to ensure that all working Americans can
114 115 116 117 118	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.  The purposes of this subtitle are—  (1) to ensure that all working Americans can address their own health needs and the health needs
114 115 116 117 118 119 220	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.  The purposes of this subtitle are—  (1) to ensure that all working Americans can address their own health needs and the health needs of their families by requiring employers to permit
14 15 16 17 18 19 20 21	This subtitle may be cited as the "Healthy Families Act".  SEC. 172. PURPOSES.  The purposes of this subtitle are—  (1) to ensure that all working Americans can address their own health needs and the health needs of their families by requiring employers to permit employees to earn up to 56 hours of paid sick times.

- medical care for themselves and their family members;
  - (3) to assist employees who are, or whose family members are, victims of domestic violence, sexual assault, or stalking, by providing the employees with paid time away from work to allow the victims to receive treatment and to take the necessary steps to ensure their protection;
    - (4) to accomplish the purposes described in paragraphs (1) through (3) in a manner that is feasible for employers; and
    - (5) consistent with the provision of the 14th amendment to the Constitution relating to equal protection of the laws, and pursuant to Congress' power to enforce that provision under section 5 of that amendment—
      - (A) to accomplish the purposes described in paragraphs (1) through (3) in a manner that minimizes the potential for employment discrimination on the basis of sex by ensuring generally that paid sick time is available for eligible medical reasons on a gender-neutral basis; and
      - (B) to promote the goal of equal employment opportunity for women and men.

# 1 SEC. 173. DEFINITIONS.

2	In this subtitle:
3	(1) CHILD.—The term "child" means a biologi-
4	cal, foster, or adopted child, a stepchild, a legal
5	ward, or a child of a person standing in loco
6	parentis, who is—
7	(A) under 18 years of age; or
8	(B) 18 years of age or older and incapable
9	of self-care because of a mental or physical dis-
10	ability.
11	(2) Domestic violence.—The term "domestic
12	violence" has the meaning given the term in section
13	40002(a) of the Violence Against Women Act of
14	1994 (42 U.S.C. 13925(a)), except that the ref-
15	erence in such section to the term "jurisdiction re-
16	ceiving grant monies" shall be deemed to mean the
17	jurisdiction in which the victim lives or the jurisdic-
18	tion in which the employer involved is located.
19	(3) Employee.—The term "employee" means
20	an individual who is—
21	(A)(i) an employee, as defined in section
22	3(e) of the Fair Labor Standards Act of 1938
23	(29 U.S.C. 203(e)), who is not covered under
24	subparagraph (E), including such an employee
25	of the Library of Congress, except that a ref-
26	erence in such section to an employer shall be

1	considered to be a reference to an employer de-
2	scribed in clauses (i)(I) and (ii) of paragraph
3	(4)(A); or
4	(ii) an employee of the Government Ac-
5	countability Office;
6	(B) a State employee described in section
7	304(a) of the Government Employee Rights Act of
8	1991 (42 U.S.C. 2000e–16c(a));
9	(C) a covered employee, as defined in section
10	101 of the Congressional Accountability Act of 1995
11	(2 U.S.C. 1301), other than an applicant for em-
12	ployment;
13	(D) a covered employee, as defined in section
14	411(c) of title 3, United States Code; or
15	(E) a Federal officer or employee covered under
16	subchapter V of chapter 63 of title 5, United States
17	Code.
18	(4) Employer.—
19	(A) IN GENERAL.—The term "employer"
20	means a person who is—
21	(i)(I) a covered employer, as defined
22	in subparagraph (B), who is not covered
23	under subclause (V);

1	(II) an entity employing a State em-
2	ployee described in section 304(a) of the
3	Government Employee Rights Act of 1991;
4	(III) an employing office, as defined
5	in section 101 of the Congressional Ac-
6	countability Act of 1995;
7	(IV) an employing office, as defined in
8	section 411(c) of title 3, United States
9	Code; or
10	(V) an employing agency covered
11	under subchapter V of chapter 63 of title
12	5, United States Code; and
13	(ii) is engaged in commerce (including
14	government), or an industry or activity af-
15	fecting commerce (including government),
16	as defined in subparagraph (B)(iii).
17	(B) Covered employer.—
18	(i) In General.—In subparagraph
19	(A)(i)(I), the term "covered employer"—
20	(I) means any person engaged in
21	commerce or in any industry or activ-
22	ity affecting commerce who employs
23	15 or more employees for each work-
24	ing day during each of 20 or more

1	calendar workweeks in the current or
2	preceding calendar year;
3	(II) includes—
4	(aa) any person who acts,
5	directly or indirectly, in the inter-
6	est of an employer to any of the
7	employees of such employer; and
8	(bb) any successor in inter-
9	est of an employer;
10	(III) includes any "public agen-
11	cy", as defined in section 3(x) of the
12	Fair Labor Standards Act of 1938
13	(29  U.S.C.  203(x));  and
14	(IV) includes the Government
15	Accountability Office and the Library
16	of Congress.
17	(ii) Public agency.—For purposes
18	of clause (i)(III), a public agency shall be
19	considered to be a person engaged in com-
20	merce or in an industry or activity affect-
21	ing commerce.
22	(iii) Definitions.—For purposes of
23	this subparagraph:
24	(I) COMMERCE.—The terms
25	"commerce" and "industry or activity

1	affecting commerce" mean any activ-
2	ity, business, or industry in commerce
3	or in which a labor dispute would
4	hinder or obstruct commerce or the
5	free flow of commerce, and include
6	"commerce" and any "industry affect-
7	ing commerce", as defined in para-
8	graphs (1) and (3) of section 501 of
9	the Labor Management Relations Act
10	1947 (29 U.S.C. 142 (1) and (3)).
11	(II) Employee.—The term "em-
12	ployee" has the same meaning given
13	such term in section 3(e) of the Fair
14	Labor Standards Act of 1938 (29
15	U.S.C. 203(e)).
16	(III) Person.—The term "per-
17	son" has the same meaning given
18	such term in section 3(a) of the Fair
19	Labor Standards Act of 1938 (29
20	U.S.C. 203(a)).
21	(C) Predecessors.—Any reference in
22	this paragraph to an employer shall include a
23	reference to any predecessor of such employer.
24	(5) Employment benefits.—The term "em-
25	ployment benefits" means all benefits provided or

- 1 made available to employees by an employer, includ-2 ing group life insurance, health insurance, disability 3 insurance, sick leave, annual leave, educational bene-4 fits, and pensions, regardless of whether such benefits are provided by a practice or written policy of 5 an employer or through an "employee benefit plan", 6 7 as defined in section 3(3) of the Employee Retire-8 ment Income Security Act of 1974 (29 U.S.C. 1002(3)). 9
  - (6) HEALTH CARE PROVIDER.—The term "health care provider" means a provider who—
    - (A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
    - (ii) is any other person determined by the Secretary to be capable of providing health care services; and
    - (B) is not employed by an employer for whom the provider issues certification under this subtitle.
  - (7) PAID SICK TIME.—The term "paid sick time" means an increment of compensated leave that can be earned by an employee for use during an absence from employment for any of the reasons de-

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- scribed in paragraphs (1) through (4) of section 5(b).
- 3 (8) PARENT.—The term "parent" means a bio-4 logical, foster, or adoptive parent of an employee, a 5 stepparent of an employee, or a legal guardian or 6 other person who stood in loco parentis to an em-7 ployee when the employee was a child.
- (9) SECRETARY.—The term "Secretary" means
  the Secretary of Labor.
  - (10) SEXUAL ASSAULT.—The term "sexual assault" has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).
  - (11) SPOUSE.—The term "spouse", with respect to an employee, has the meaning given such term by the marriage laws of the State in which the employee resides.
  - (12) STALKING.—The term "stalking" has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).
  - (13) Victim services organization.—The term "victim services organization" means a non-profit, nongovernmental organization that provides assistance to victims of domestic violence, sexual as-

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sault, or stalking or advocates for such victims, including a rape crisis center, an organization carrying
out a domestic violence, sexual assault, or stalking
prevention or treatment program, an organization
operating a shelter or providing counseling services,
or a legal services organization or other organization
providing assistance through the legal process.

#### 8 SEC. 174. PROVISION OF PAID SICK TIME.

# (a) ACCRUAL OF PAID SICK TIME.—

(1) IN GENERAL.—An employer shall permit each employee employed by the employer to earn not less than 1 hour of paid sick time for every 30 hours worked, to be used as described in subsection (b). An employer shall not be required to permit an employee to earn, under this section, more than 56 hours of paid sick time in a calendar year, unless the employer chooses to set a higher limit.

### (2) Exempt employees.—

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

- 1 (B) SHORTER NORMAL WORKWEEK.—If
  2 the normal workweek of such an employee is
  3 less than 40 hours, the employee shall earn
  4 paid sick time based upon that normal work
  5 week.
  - (3) Dates of accrual and use.—Employees shall begin to earn paid sick time under this section at the commencement of their employment. An employee shall be entitled to use the earned paid sick time beginning on the 60th calendar day following commencement of the employee's employment. After that 60th calendar day, the employee may use the paid sick time as the time is earned. An employer may, at the discretion of the employer, loan paid sick time to an employee in advance of the earning of such time under this section by such employee.

#### (4) Carryover.—

- (A) IN GENERAL.—Except as provided in subparagraph (B), paid sick time earned under this section shall carry over from 1 calendar year to the next.
- (B) Construction.—This subtitle shall not be construed to require an employer to permit an employee to accrue more than 56 hours of earned paid sick time at a given time.

- (5) Employers with existing policies.— Any employer with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as the purposes and conditions out-lined in subsection (b) shall not be required to per-mit an employee to earn additional paid sick time under this section.
  - (6) Construction.—Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for earned paid sick time that has not been used.
  - (7) Reinstatement.—If an employee is separated from employment with an employer and is rehired, within 12 months after that separation, by the same employer, the employer shall reinstate the employee's previously earned paid sick time. The employee shall be entitled to use the earned paid sick time and earn additional paid sick time at the recommencement of employment with the employer.
  - (8) Prohibition.—An employer may not require, as a condition of providing paid sick time

1	under this subtitle, that the employee involved
2	search for or find a replacement worker to cover the
3	hours during which the employee is using paid sick
4	time.
5	(b) Uses.—Paid sick time earned under this section
6	may be used by an employee for any of the following:
7	(1) An absence resulting from a physical or
8	mental illness, injury, or medical condition of the
9	employee.
10	(2) An absence resulting from obtaining profes-
11	sional medical diagnosis or care, or preventive med-
12	ical care, for the employee.
13	(3) An absence for the purpose of caring for a
14	child, a parent, a spouse, or any other individual re-
15	lated by blood or affinity whose close association
16	with the employee is the equivalent of a family rela-
17	tionship, who—
18	(A) has any of the conditions or needs for
19	diagnosis or care described in paragraph (1) or
20	(2); and
21	(B) in the case of someone who is not a
22	child, is otherwise in need of care.
23	(4) An absence resulting from domestic vio-
24	lence, sexual assault, or stalking, if the time is to—

1	(A) seek medical attention for the em-
2	ployee or the employee's child, parent, or
3	spouse, or an individual related to the employee
4	as described in paragraph (3), to recover from
5	physical or psychological injury or disability
6	caused by domestic violence, sexual assault, or
7	stalking;
8	(B) obtain or assist a related person de-
9	scribed in paragraph (3) in obtaining services
10	from a victim services organization;
11	(C) obtain or assist a related person de-
12	scribed in paragraph (3) in obtaining psycho-
13	logical or other counseling;
14	(D) seek relocation; or
15	(E) take legal action, including preparing
16	for or participating in any civil or criminal legal
17	proceeding related to or resulting from domestic
18	violence, sexual assault, or stalking.
19	(c) Scheduling.—An employee shall make a reason-
20	able effort to schedule a period of paid sick time under
21	this subtitle in a manner that does not unduly disrupt the
22	operations of the employer.
23	(d) Procedures.—

1	(1) In general.—Paid sick time shall be pro-
2	vided upon the oral or written request of an em-
3	ployee. Such request shall—
4	(A) include the expected duration of the
5	period of such time;
6	(B) in a case in which the need for such
7	period of time is foreseeable at least 7 days in
8	advance of such period, be provided at least 7
9	days in advance of such period; and
10	(C) otherwise, be provided as soon as prac-
11	ticable after the employee is aware of the need
12	for such period.
13	(2) Certification in General.—
14	(A) Provision.—
15	(i) In general.—Subject to subpara-
16	graph (C), an employer may require that a
17	request for paid sick time under this sec-
18	tion for a purpose described in paragraph
19	(1), $(2)$ , or $(3)$ of subsection $(b)$ be sup-
20	ported by a certification issued by the
21	health care provider of the eligible em-
22	ployee or of an individual described in sub-
23	section (b)(3), as appropriate, if the period
24	of such time covers more than 3 consecu-
25	tive workdays.

1	(ii) Timeliness.—The employee shall
2	provide a copy of such certification to the
3	employer in a timely manner, not later
4	than 30 days after the first day of the pe-
5	riod of time. The employer shall not delay
6	the commencement of the period of time on
7	the basis that the employer has not yet re-
8	ceived the certification.
9	(B) Sufficient certification.—
10	(i) In general.—A certification pro-
11	vided under subparagraph (A) shall be suf-
12	ficient if it states—
13	(I) the date on which the period
14	of time will be needed;
15	(II) the probable duration of the
16	period of time;
17	(III) the appropriate medical
18	facts within the knowledge of the
19	health care provider regarding the
20	condition involved, subject to clause
21	(ii); and
22	(IV)(aa) for purposes of paid sick
23	time under subsection (b)(1), a state-
24	ment that absence from work is medi-
25	cally necessary;

1	(bb) for purposes of such time
2	under subsection (b)(2), the dates on
3	which testing for a medical diagnosis
4	or care is expected to be given and the
5	duration of such testing or care; and
6	(cc) for purposes of such time
7	under subsection (b)(3), in the case of
8	time to care for someone who is not a
9	child, a statement that care is needed
10	for an individual described in such
11	subsection, and an estimate of the
12	amount of time that such care is
13	needed for such individual.
14	(ii) Limitation.—In issuing a certifi-
15	cation under subparagraph (A), a health
16	care provider shall make reasonable efforts
17	to limit the medical facts described in
18	clause (i)(III) that are disclosed in the cer-
19	tification to the minimum necessary to es-
20	tablish a need for the employee to utilize
21	paid sick time.
22	(C) REGULATIONS.—Regulations pre-
23	scribed under section 182 shall specify the man-
24	ner in which an employee who does not have

1	health insurance shall provide a certification for
2	purposes of this paragraph.
3	(D) Confidentiality and nondisclo-
4	SURE.—
5	(i) Protected Health Informa-
6	TION.—Nothing in this subtitle shall be
7	construed to require a health care provider
8	to disclose information in violation of sec-
9	tion 1177 of the Social Security Act (42
10	U.S.C. 1320d-6) or the regulations pro-
11	mulgated pursuant to section 264(c) of the
12	Health Insurance Portability and Account-
13	ability Act of 1996 (42 U.S.C. 1320d–2
14	note).
15	(ii) Health information
16	RECORDS.—If an employer possesses
17	health information about an employee or
18	an employee's child, parent, spouse or
19	other individual described in subsection
20	(b)(3), such information shall—
21	(I) be maintained on a separate
22	form and in a separate file from other
23	personnel information;
24	(II) be treated as a confidential
25	medical record; and

1	(III) not be disclosed except to
2	the affected employee or with the per-
3	mission of the affected employee.
4	(3) CERTIFICATION IN THE CASE OF DOMESTIC
5	VIOLENCE, SEXUAL ASSAULT, OR STALKING.—
6	(A) In general.—An employer may re-
7	quire that a request for paid sick time under
8	this section for a purpose described in sub-
9	section (b)(4) be supported by 1 of the fol-
10	lowing forms of documentation:
11	(i) A police report indicating that the
12	employee, or a member of the employee's
13	family described in subsection (b)(4), was
14	a victim of domestic violence, sexual as-
15	sault, or stalking.
16	(ii) A court order protecting or sepa-
17	rating the employee or a member of the
18	employee's family described in subsection
19	(b)(4) from the perpetrator of an act of
20	domestic violence, sexual assault, or stalk-
21	ing, or other evidence from the court or
22	prosecuting attorney that the employee or
23	a member of the employee's family de-
24	scribed in subsection (b)(4) has appeared
25	in court or is scheduled to appear in court

1	in a proceeding related to domestic vio-
2	lence, sexual assault, or stalking.
3	(iii) Other documentation signed by
4	an employee or volunteer working for a vic-
5	tim services organization, an attorney, a
6	police officer, a medical professional, a so-
7	cial worker, an antiviolence counselor, or a
8	member of the clergy, affirming that the
9	employee or a member of the employee's
10	family described in subsection (b)(4) is a
11	victim of domestic violence, sexual assault,
12	or stalking.
13	(B) REQUIREMENTS.—The requirements
14	of paragraph (2) shall apply to certifications
15	under this paragraph, except that—
16	(i) subclauses (III) and (IV) of sub-
17	paragraph (B)(i) and subparagraph (B)(ii)
18	of such paragraph shall not apply;
19	(ii) the certification shall state the
20	reason that the leave is required with the
21	facts to be disclosed limited to the min-
22	imum necessary to establish a need for the
23	employee to be absent from work, and the
24	employee shall not be required to explain

1	the details of the domestic violence, sexual
2	assault, or stalking involved; and
3	(iii) with respect to confidentiality
4	under subparagraph (D) of such para-
5	graph, any information provided to the em-
6	ployer under this paragraph shall be con-
7	fidential, except to the extent that any dis-
8	closure of such information is—
9	(I) requested or consented to in
10	writing by the employee; or
11	(II) otherwise required by appli-
12	cable Federal or State law.
13	SEC. 175. POSTING REQUIREMENT.
14	(a) In General.—Each employer shall post and
15	keep posted a notice, to be prepared or approved in ac-
16	cordance with procedures specified in regulations pre-
17	scribed under section 182, setting forth excerpts from, or
18	summaries of, the pertinent provisions of this subtitle in-
19	cluding—
20	(1) information describing paid sick time avail-
21	able to employees under this subtitle;
22	(2) information pertaining to the filing of an
23	action under this subtitle;

1	(3) the details of the notice requirement for a
2	foreseeable period of time under section
3	174(d)(1)(B); and
4	(4) information that describes—
5	(A) the protections that an employee has
6	in exercising rights under this subtitle; and
7	(B) how the employee can contact the Sec-
8	retary (or other appropriate authority as de-
9	scribed in section 177) if any of the rights are
10	violated.
11	(b) LOCATION.—The notice described under sub-
12	section (a) shall be posted—
13	(1) in conspicuous places on the premises of the
14	employer, where notices to employees (including ap-
15	plicants) are customarily posted; or
16	(2) in employee handbooks.
17	(c) VIOLATION; PENALTY.—Any employer who will-
18	fully violates the posting requirements of this section shall
19	be subject to a civil fine in an amount not to exceed \$100
20	for each separate offense.
21	SEC. 176. PROHIBITED ACTS.
22	(a) Interference With Rights.—
23	(1) Exercise of rights.—It shall be unlawful
24	for any employer to interfere with, restrain, or deny

1	the exercise of, or the attempt to exercise, any right
2	provided under this subtitle, including—
3	(A) discharging or discriminating against
4	(including retaliating against) any individual,
5	including a job applicant, for exercising, or at-
6	tempting to exercise, any right provided under
7	this subtitle;
8	(B) using the taking of paid sick time
9	under this subtitle as a negative factor in an
10	employment action, such as hiring, promotion,
11	or a disciplinary action; or
12	(C) counting the paid sick time under a
13	no-fault attendance policy or any other absence
14	control policy.
15	(2) DISCRIMINATION.—It shall be unlawful for
16	any employer to discharge or in any other manner
17	discriminate against (including retaliating against)
18	any individual, including a job applicant, for oppos-
19	ing any practice made unlawful by this subtitle.
20	(b) Interference With Proceedings or Inquir-
21	IES.—It shall be unlawful for any person to discharge or
22	in any other manner discriminate against (including retali-
23	ating against) any individual, including a job applicant,
24	because such individual—

1	(1) has filed an action, or has instituted or
2	caused to be instituted any proceeding, under or re-
3	lated to this subtitle;
4	(2) has given, or is about to give, any informa-
5	tion in connection with any inquiry or proceeding re-
6	lating to any right provided under this subtitle; or
7	(3) has testified, or is about to testify, in any
8	inquiry or proceeding relating to any right provided
9	under this subtitle.
10	(c) Construction.—Nothing in this section shall be
11	construed to state or imply that the scope of the activities
12	prohibited by section 105 of the Family and Medical Leave
13	Act of 1993 (29 U.S.C. 2615) is less than the scope of
14	the activities prohibited by this section.
15	SEC. 177. ENFORCEMENT AUTHORITY.
16	(a) In General.—
17	(1) Definitions.—In this subsection:
18	(A) the term "employee" means an em-
19	ployee described in subparagraph (A) or (B) of
20	section 173(3); and
21	(B) the term "employer" means an em-
22	ployer described in subclause (I) or (II) of sec-
23	tion $173(4)(A)(i)$ .
24	(2) Investigative authority —

- (A) IN GENERAL.—To ensure compliance with the provisions of this subtitle, or any regu-lation or order issued under this subtitle, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to em-ployers, employees, and other individuals af-fected.
  - (B) Obligation to Keep and Preserve Records.—An employer shall make, keep, and preserve records pertaining to compliance with this subtitle in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations prescribed by the Secretary.
  - (C) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not require, under the authority of this paragraph, an employer to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this subtitle or any regulation or order issued pursuant to this subtitle,

1	or is investigating a charge pursuant to para-
2	graph (4).
3	(D) Subpoena authority.—For the pur-
4	poses of any investigation provided for in this
5	paragraph, the Secretary shall have the sub-
6	poena authority provided for under section 9 of
7	the Fair Labor Standards Act of 1938 (29
8	U.S.C. 209).
9	(3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
10	UALS.—
11	(A) RIGHT OF ACTION.—An action to re-
12	cover the damages or equitable relief prescribed
13	in subparagraph (B) may be maintained
14	against any employer in any Federal or State
15	court of competent jurisdiction by one or more
16	employees or individuals or their representative
17	for and on behalf of—
18	(i) the employees or individuals; or
19	(ii) the employees or individuals and
20	others similarly situated.
21	(B) Liability.—Any employer who vio-
22	lates section 176 (including a violation relating
23	to rights provided under section 174) shall be
24	liable to any employee or individual affected—
25	(i) for damages equal to—

1	(I) the amount of—
2	(aa) any wages, salary, em-
3	ployment benefits, or other com-
4	pensation denied or lost by rea-
5	son of the violation; or
6	(bb) in a case in which
7	wages, salary, employment bene-
8	fits, or other compensation have
9	not been denied or lost, any ac-
10	tual monetary losses sustained as
11	a direct result of the violation up
12	to a sum equal to 56 hours of
13	wages or salary for the employee
14	or individual;
15	(II) the interest on the amount
16	described in subclause (I) calculated
17	at the prevailing rate; and
18	(III) an additional amount as liq-
19	uidated damages; and
20	(ii) for such equitable relief as may be
21	appropriate, including employment, rein-
22	statement, and promotion.
23	(C) Fees and costs.—The court in an
24	action under this paragraph shall, in addition to
25	any judgment awarded to the plaintiff, allow a

reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

# (4) ACTION BY THE SECRETARY.—

- (A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 176 (including a violation relating to rights provided under section 174) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).
- (B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).
- (C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited

1	into the Treasury of the United States as mis-
2	cellaneous receipts.
3	(5) Limitation.—
4	(A) In general.—Except as provided in
5	subparagraph (B), an action may be brought
6	under paragraph (3), (4), or (6) not later than
7	2 years after the date of the last event consti-
8	tuting the alleged violation for which the action
9	is brought.
10	(B) WILLFUL VIOLATION.—In the case of
11	an action brought for a willful violation of sec
12	tion 176 (including a willful violation relating to
13	rights provided under section 174), such action
14	may be brought within 3 years of the date of
15	the last event constituting the alleged violation
16	for which such action is brought.
17	(C) COMMENCEMENT.—In determining
18	when an action is commenced under paragraph
19	(3), (4), or (6) for the purposes of this para
20	graph, it shall be considered to be commenced
21	on the date when the complaint is filed.
22	(6) Action for injunction by secretary.—
23	The district courts of the United States shall have
24	jurisdiction, for cause shown, in an action brough

by the Secretary—

- 1 (A) to restrain violations of section 176 2 (including a violation relating to rights provided 3 under section 174), including the restraint of 4 any withholding of payment of wages, salary, 5 employment benefits, or other compensation, 6 plus interest, found by the court to be due to 7 employees or individuals eligible under this sub-8 title; or
  - (B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.
  - (7) Solicitor of Labor.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under paragraph (4) or (6).
  - (8) GOVERNMENT ACCOUNTABILITY OFFICE AND LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subsection shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.
- 24 (b) Employees Covered by Congressional Ac-25 Countability Act of 1995.—The powers, remedies, and

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- 1 procedures provided in the Congressional Accountability
- 2 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
- 3 fined in section 101 of that Act (2 U.S.C. 1301)), or any
- 4 person, alleging a violation of section 202(a)(1) of that
- 5 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
- 6 and procedures this subtitle provides to that Board, or any
- 7 person, alleging an unlawful employment practice in viola-
- 8 tion of this subtitle against an employee described in sec-
- 9 tion 173(3)(C).
- 10 (c) Employees Covered by Chapter 5 of Title
- 11 3, UNITED STATES CODE.—The powers, remedies, and
- 12 procedures provided in chapter 5 of title 3, United States
- 13 Code, to the President, the Merit Systems Protection
- 14 Board, or any person, alleging a violation of section
- 15 412(a)(1) of that title, shall be the powers, remedies, and
- 16 procedures this subtitle provides to the President, that
- 17 Board, or any person, respectively, alleging an unlawful
- 18 employment practice in violation of this subtitle against
- 19 an employee described in section 173(3)(D).
- 20 (d) Employees Covered by Chapter 63 of Title
- 21 5, United States Code.—The powers, remedies, and
- 22 procedures provided in title 5, United States Code, to an
- 23 employing agency, provided in chapter 12 of that title to
- 24 the Merit Systems Protection Board, or provided in that
- 25 title to any person, alleging a violation of chapter 63 of

- 1 that title, shall be the powers, remedies, and procedures
- 2 this subtitle provides to that agency, that Board, or any
- 3 person, respectively, alleging an unlawful employment
- 4 practice in violation of this subtitle against an employee
- 5 described in section 173(3)(E).
- 6 (e) Remedies for State Employees.—
- 7 (1) WAIVER OF SOVEREIGN IMMUNITY.—A
  8 State's receipt or use of Federal financial assistance
  9 for any program or activity of a State shall con10 stitute a waiver of sovereign immunity, under the
  11 11th amendment to the Constitution or otherwise, to
  12 a suit brought by an employee of that program or
  13 activity under this subtitle for equitable, legal, or

other relief authorized under this subtitle.

- (2) OFFICIAL CAPACITY.—An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures under subsection (a)(3), for injunctive relief that is authorized under this subtitle. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).
- (3) APPLICABILITY.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date

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1	of enactment of this subtitle, on which a State first
2	receives or uses Federal financial assistance for that
3	program or activity.
4	(4) Definition of Program or activity.—In
5	this subsection, the term "program or activity" has
6	the meaning given the term in section 606 of the
7	Civil Rights Act of 1964 (42 U.S.C. 2000d-4a).
8	SEC. 178. COLLECTION OF DATA ON PAID SICK TIME AND
9	FURTHER STUDY.
10	(a) Compilation of Information.—Effective 90
11	days after the date of enactment of this subtitle, the Com-
12	missioner of Labor Statistics shall annually compile infor-
13	mation on the following:
14	(1) The number of employees who used paid
15	sick time.
16	(2) The number of hours of paid sick time
17	used.
18	(3) The number of employees who used paid
19	sick time for absences necessary due to domestic vio-
20	lence, sexual assault, or stalking.
21	(4) The demographic characteristics of employ-
22	ees who were eligible for and who used paid sick
23	time.
24	(b) GAO STUDY.—

1	(1) IN GENERAL.—The Comptroller General of
2	the United States shall annually conduct a study to
3	determine the following:
4	(A)(i) The number of days employees used
5	paid sick time and the reasons for the use.
6	(ii) The number of employees who used the
7	paid sick time for periods of time covering more
8	than 3 consecutive workdays.
9	(B) The cost and benefits to employers of
10	implementing the paid sick time policies.
11	(C) The cost to employees of providing cer-
12	tification to obtain the paid sick time.
13	(D) The benefits of the paid sick time to
14	employees and their family members, including
15	effects on employees' ability to care for their
16	family members or to provide for their own
17	health needs.
18	(E) Whether the paid sick time affected
19	employees' ability to sustain an adequate in-
20	come while meeting needs of the employees and
21	their family members.
22	(F) Whether employers who administered
23	paid sick time policies prior to the date of en-
24	actment of this subtitle were affected by the
25	provisions of this subtitle.

1	(G) Whether other types of leave were af-
2	fected by this subtitle.
3	(H) Whether paid sick time affected reten-
4	tion and turnover and costs of presenteeism.
5	(I) Whether the paid sick time increased
6	the use of less costly preventive medical care
7	and lowered the use of emergency room care.
8	(J) Whether the paid sick time reduced the
9	number of children sent to school when the chil-
10	dren were sick.
11	(2) Aggregating data.—The data collected
12	under subparagraphs (A) and (D) of paragraph (1)
13	shall be aggregated by gender, race, disability, earn-
14	ings level, age, marital status, family type, including
15	parental status, and industry.
16	(3) Reports.—
17	(A) IN GENERAL.—Not later than 18
18	months after the date of enactment of this sub-
19	title, the Comptroller General of the United
20	States shall prepare and submit a report to the
21	appropriate committees of Congress concerning
22	the results of the study conducted pursuant to
23	paragraph (1) and the data aggregated under

paragraph (2).

1 (B) FOLLOWUP REPORT.—Not later than
2 5 years after the date of enactment of this sub3 title, the Comptroller General of the United
4 States shall prepare and submit a followup re5 port to the appropriate committees of Congress
6 concerning the results of the study conducted
7 pursuant to paragraph (1) and the data aggre8 gated under paragraph (2).

#### 9 SEC. 179. EFFECT ON OTHER LAWS.

- 10 (a) Federal and State Antidiscrimination
- 11 Laws.—Nothing in this subtitle shall be construed to
- 12 modify or affect any Federal or State law prohibiting dis-
- 13 crimination on the basis of race, religion, color, national
- 14 origin, sex, age, or disability.
- 15 (b) STATE AND LOCAL LAWS.—Nothing in this sub-
- 16 title shall be construed to supersede (including pre-
- 17 empting) any provision of any State or local law that pro-
- 18 vides greater paid sick time or leave rights (including
- 19 greater paid sick time or leave, or greater coverage of
- 20 those eligible for paid sick time or leave) than the rights
- 21 established under this subtitle.
- 22 SEC. 180. EFFECT ON EXISTING EMPLOYMENT BENEFITS.
- 23 (a) More Protective.—Nothing in this subtitle
- 24 shall be construed to diminish the obligation of an em-
- 25 ployer to comply with any contract, collective bargaining

- 1 agreement, or any employment benefit program or plan
- 2 that provides greater paid sick leave or other leave rights
- 3 to employees or individuals than the rights established
- 4 under this subtitle.
- 5 (b) Less Protective.—The rights established for
- 6 employees under this subtitle shall not be diminished by
- 7 any contract, collective bargaining agreement, or any em-
- 8 ployment benefit program or plan.
- 9 SEC. 181. ENCOURAGEMENT OF MORE GENEROUS LEAVE
- 10 **POLICIES.**
- Nothing in this subtitle shall be construed to discour-
- 12 age employers from adopting or retaining leave policies
- 13 more generous than policies that comply with the require-
- 14 ments of this subtitle.
- 15 SEC. 182. REGULATIONS.
- 16 (a) IN GENERAL.—
- 17 (1) AUTHORITY.—Except as provided in para-
- graph (2), not later than 180 days after the date of
- enactment of this subtitle, the Secretary shall pre-
- scribe such regulations as are necessary to carry out
- 21 this subtitle with respect to employees described in
- subparagraph (A) or (B) of section 173(3) and other
- 23 individuals affected by employers described in sub-
- clause (I) or (II) of section 173(4)(A)(i).

- (2) Government accountability office; Li-BRARY OF CONGRESS.—The Comptroller General of the United States and the Librarian of Congress shall prescribe the regulations with respect to em-ployees of the Government Accountability Office and the Library of Congress, respectively and other indi-viduals affected by the Comptroller General of the United States and the Librarian of Congress, re-spectively.
- 10 (b) Employees Covered by Congressional Ac-11 countability Act of 1995.—
  - (1) Authority.—Not later than 120 days after the date of enactment of this subtitle, the Board of Directors of the Office of Compliance shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) such regulations as are necessary to carry out this subtitle with respect to employees described in section 173(3)(C) and other individuals affected by employers described in section 173(4)(A)(i)(III).
    - (2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this subtitle except insofar as the Board may determine, for good cause shown and

- 1 stated together with the regulations prescribed
- 2 under paragraph (1), that a modification of such
- 3 regulations would be more effective for the imple-
- 4 mentation of the rights and protections involved
- 5 under this section.
- 6 (c) Employees Covered by Chapter 5 of Title
- 7 3, United States Code.—
- 8 (1) AUTHORITY.—Not later than 120 days
- 9 after the date of enactment of this subtitle, the
- 10 President (or the designee of the President) shall
- prescribe such regulations as are necessary to carry
- out this subtitle with respect to employees described
- in section 173(3)(D) and other individuals affected
- by employers described in section 173(4)(A)(i)(IV).
- 15 (2) AGENCY REGULATIONS.—The regulations
- prescribed under paragraph (1) shall be the same as
- substantive regulations promulgated by the Sec-
- retary to carry out this subtitle except insofar as the
- 19 President (or designee) may determine, for good
- cause shown and stated together with the regula-
- 21 tions prescribed under paragraph (1), that a modi-
- fication of such regulations would be more effective
- for the implementation of the rights and protections
- involved under this section.

- (d) Employees Covered by Chapter 63 of Title
   5, United States Code.—
- 3 (1) AUTHORITY.—Not later than 120 days 4 after the date of enactment of this subtitle, the Di-5 rector of the Office of Personnel Management shall 6 prescribe such regulations as are necessary to carry 7 out this subtitle with respect to employees described 8 in section 173(3)(E) and other individuals affected 9 by employers described in section 173(4)(A)(i)(V).
- 10 (2) AGENCY REGULATIONS.—The regulations 11 prescribed under paragraph (1) shall be the same as 12 substantive regulations promulgated by the Sec-13 retary to carry out this subtitle except insofar as the 14 Director may determine, for good cause shown and 15 stated together with the regulations prescribed 16 under paragraph (1), that a modification of such 17 regulations would be more effective for the imple-18 mentation of the rights and protections involved 19 under this section.

#### 20 SEC. 183. EFFECTIVE DATES.

- 21 (a) Effective Date.—This subtitle shall take effect
- 22 6 months after the date of issuance of regulations under
- 23 section 182(a)(1).
- 24 (b) COLLECTIVE BARGAINING AGREEMENTS.—In the
- 25 case of a collective bargaining agreement in effect on the

1	effective date prescribed by subsection (a), this subtitle
2	shall take effect on the earlier of—
3	(1) the date of the termination of such agree-
4	ment; or
5	(2) the date that occurs 18 months after the
6	date of issuance of regulations under section
7	182(a)(1).
8	TITLE II—CHILD CARE
9	EXPANSION AND IMPROVEMENT
10	Subtitle A—Care for Young
11	Children
12	SEC. 201. EXPANDING CHILD CARE FOR YOUNG CHILDREN
13	(a) Goals.—Section 658A(b) of the Child Care and
14	Development Block Grant Act of 1990 (42 U.S.C. 9801
15	note) is amended—
16	(1) in paragraph (4), by striking "and";
17	(2) in paragraph (5), by striking the period and
18	inserting "; and; and
19	(3) by adding at the end the following:
20	"(6) to assist States in improving child care
21	services for young children.".
22	(b) Authorization of Appropriations.—Section
23	658B of the Child Care and Development Block Grant Act
24	of 1990 (42 U.S.C. 9858) is amended—

1	(1) by striking "There" and inserting "(a) In
2	General.—There"; and
3	(2) by adding at the end the following:
4	"(b) CHILD CARE ACTIVITIES FOR YOUNG CHIL-
5	DREN.—In addition to amounts appropriated under sub-
6	section (a), there is authorized to be appropriated to carry
7	out child care activities for young children under this sub-
8	chapter \$500,000,000 for each of the fiscal years 2012,
9	2013, and 2014.".
10	(c) CHILD CARE ACTIVITIES FOR YOUNG CHIL-
11	DREN.—The Child Care and Development Block Grant
12	Act of 1990 (42 U.S.C. 9801 et seq.) is amended by in-
13	serting after section 658G the following:
13	serting after section of the following.
14	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL-
14	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL-
14 15	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHILDREN.
14 15 16 17	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL- DREN.  "Child care activities for young children for which
14 15 16 17	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL- DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities
14 15 16 17	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL-DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:
114 115 116 117 118	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL-DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:  "(1) Increase the availability of child care serv-
14 15 16 17 18 19 20	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL- DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:  "(1) Increase the availability of child care services for young children with disabilities.
14 15 16 17 18 19 20 21	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL- DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:  "(1) Increase the availability of child care services for young children with disabilities.  "(2) Provide support services for networks of
14 15 16 17 18 19 20 21	"SEC. 658H. CHILD CARE ACTIVITIES FOR YOUNG CHIL- DREN.  "Child care activities for young children for which funds under this subchapter may be used include activities that are designed to accomplish the following:  "(1) Increase the availability of child care services for young children with disabilities.  "(2) Provide support services for networks of family child care providers.

- and family child care providers that provide child care to young children. Such support may include
- 3 the purchase of equipment such as cribs and high
- 4 chairs.

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- "(4) Provide funds to increase compensation offered and provide bonuses to caregivers, eligible child care providers, and family child care providers who provide child care to children under the age of years, especially those caregivers and providers who have formal education in early childhood development.
  - "(5) Provide and support networks between health care providers and caregivers, eligible child care providers, and family child care providers that provide child care to young children.
- "(6) Provide child care services for young children who are enrolled in Head Start programs under
  the Head Start Act (42 U.S.C. 9831 et seq.).".
- 19 (d) Definitions.—Section 658P of the Child Care
- 20 and Development Block Grant Act of 1990 (42 U.S.C.
- 21 9858n) is amended by adding at the end the following:
- 22 "(15) Young Children.—The term 'young
- children' means eligible children who are less than 3
- years of age.".

# Subtitle B—Improving Child Care **Quality Through Teacher Incen-**2 tives 3 SEC. 211. PURPOSE. 4 5 The purposes of this subtitle are— 6 (1) to establish the Child Care Provider Devel-7 opment and Retention Grant Program, the Child 8 Care Provider Scholarship Program, and a program 9 of child care provider health benefits coverage; and 10 (2) to help children receive the high-quality 11 child care and early education the children need for 12 positive cognitive and social development, by reward-13 ing and promoting the retention of committed, quali-14 fied child care providers and by providing financial 15 assistance to improve the educational qualifications 16 of child care providers. 17 SEC. 212. DEFINITIONS. 18 In this subtitle: 19 (1) CHILD CARE PROVIDER.—The term "child 20 care provider" means an individual who provides a 21 service directly to a child on a person-to-person basis 22 for compensation for— 23 (A) a center-based child care provider that 24 is licensed or regulated under State or local law 25 and that satisfies the State and local require-

1	ments applicable to the child care services pro-
2	vided;
3	(B) a licensed or regulated family child
4	care provider that satisfies the State and local
5	requirements applicable to the child care serv-
6	ices provided; or
7	(C) an out-of-school time program that is
8	licensed or regulated under State or local law
9	and that satisfies the State and local require-
10	ments applicable to the child care services pro-
11	vided.
12	(2) Family Child Care Provider.—The term
13	"family child care provider" has the meaning given
14	such term in section 658P of the Child Care and
15	Development Block Grant Act of 1990 (42 U.S.C.
16	9858n).
17	(3) Indian tribe.—The term "Indian tribe"
18	has the meaning given such term in section 4 of the
19	Indian Self-Determination and Education Assistance
20	Act (25 U.S.C. 450b).
21	(4) Lead agency.—The term "lead agency"
22	means the agency designated under section 658D of
23	the Child Care and Development Block Grant Act of
24	1990 (42 U.S.C. 9858b).

1	(5) Secretary.—The term "Secretary" means
2	the Secretary of Health and Human Services.
3	(6) State.—The term "State" means any of
4	the several States, the District of Columbia, the
5	Commonwealth of Puerto Rico, the Virgin Islands of
6	the United States, Guam, American Samoa, or the
7	Commonwealth of the Northern Mariana Islands.
8	(7) Tribal organization.—The term "tribal
9	organization" has the meaning given the term in
10	section 4 of the Indian Self-Determination and Edu-
11	cation Assistance Act (25 U.S.C. 450b).
12	SEC. 213. FUNDS FOR CHILD CARE PROVIDER DEVELOP-
13	MENT AND RETENTION GRANTS, SCHOLAR-
<ul><li>13</li><li>14</li></ul>	MENT AND RETENTION GRANTS, SCHOLAR- SHIPS, AND HEALTH BENEFITS COVERAGE.
14	SHIPS, AND HEALTH BENEFITS COVERAGE.
14 15	SHIPS, AND HEALTH BENEFITS COVERAGE.  (a) IN GENERAL.—From amounts appropriated to
<ul><li>14</li><li>15</li><li>16</li></ul>	SHIPS, AND HEALTH BENEFITS COVERAGE.  (a) IN GENERAL.—From amounts appropriated to carry out this subtitle, the Secretary may allot and dis-
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	SHIPS, AND HEALTH BENEFITS COVERAGE.  (a) IN GENERAL.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to In-
14 15 16 17 18	SHIPS, AND HEALTH BENEFITS COVERAGE.  (a) IN GENERAL.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li></ul>	SHIPS, AND HEALTH BENEFITS COVERAGE.  (a) IN GENERAL.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal share of the cost of carrying out activities under sections
14 15 16 17 18 19 20	ships, and health benefits coverage.  (a) In General.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal share of the cost of carrying out activities under sections 216, 217, and 218 for eligible child care providers.
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li><li>20</li><li>21</li></ul>	ships, and health benefits coverage.  (a) In General.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal share of the cost of carrying out activities under sections 216, 217, and 218 for eligible child care providers.  (b) Allotments.—The funds shall be allotted and
14 15 16 17 18 19 20 21 22	ships, and health benefits coverage.  (a) In General.—From amounts appropriated to carry out this subtitle, the Secretary may allot and distribute funds to eligible States, and make payments to Indian tribes and tribal organizations, to pay for the Federal share of the cost of carrying out activities under sections 216, 217, and 218 for eligible child care providers.  (b) Allotments.—The funds shall be allotted and distributed, and the payments shall be made, by the Sec-

1 tribes and tribal organizations, in accordance with this 2 subtitle.

#### 3 SEC. 214. ALLOTMENTS TO STATES.

4 (a) Amounts Reserved.—

- (1) Territories and possessions.—The Secretary shall reserve not more than ½ of 1 percent of the funds appropriated under section 221(a), and not more than ½ of 1 percent of the funds appropriated under section 222(b), for any fiscal year for payments to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.
  - (2) Indian tribes and tribal organizations.—The Secretary shall reserve not more than 3 percent of the funds appropriated under section 221(a), and not more than 3 percent of the funds appropriated under section 221(b), for any fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).
- 22 (b) Allotments to Remaining States.—
- 23 (1) GENERAL AUTHORITY.—From the funds 24 appropriated under section 221(a) for any fiscal year 25 and remaining after the reservations made under

- subsection (a), and from the funds appropriated under section 221(b) for any fiscal year and remaining after the reservations made under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—
  - (A) an amount that bears the same ratio to 50 percent of the appropriate remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and
  - (B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.
  - (2) Young child factor" means the ratio of the number of children under 5 years of age in the State to the number of such children in all the States, as determined according to the most recent annual estimates of population in the States, as provided by the Bureau of the Census.

1 (3) School Lunch Factor.—In this sub-2 section, the term "school lunch factor" means the 3 ratio of the number of children who are receiving 4 free or reduced price lunches under the school lunch 5 program established under the Richard B. Russell 6 National School Lunch Act (42 U.S.C. 1751 et seq.) 7 in the State to the number of such children in all 8 the States, as determined annually by the Depart-9 ment of Agriculture. 10 (4) Allotment Percentage.— 11 (A) IN GENERAL.—Except as provided in 12 subparagraph (B), for purposes of this sub-13 section, the allotment percentage for a State 14 shall be determined by dividing the per capita 15 income of all individuals in the United States, 16 by the per capita income of all individuals in 17 the State. 18 (B) LIMITATIONS.—For purposes of this 19 subsection, if an allotment percentage deter-20 mined under subparagraph (A)— 21 (i) is more than 1.2 percent, the allot-

ment percentage of that State shall be con-

sidered to be 1.2 percent; and

22

1	(ii) is less than 0.8 percent, the allot-
2	ment percentage of the State shall be con-
3	sidered to be 0.8 percent.
4	(C) Per capita income.—For purposes
5	of subparagraph (A), per capita income shall
6	be—
7	(i) determined at 2-year intervals;
8	(ii) applied for the 2-year period be-
9	ginning on October 1 of the first fiscal
10	year beginning after the date such deter-
11	mination is made; and
12	(iii) equal to the average of the an-
13	nual per capita incomes for the most re-
14	cent period of 3 consecutive years for
15	which satisfactory data are available from
16	the Department of Commerce at the time
17	such determination is made.
18	(c) Payments to Indian Tribes and Tribal Or-
19	GANIZATIONS.—
20	(1) Reservation of funds.—From amounts
21	reserved under subsection (a)(2), the Secretary may
22	make grants to or enter into contracts with Indian
23	tribes and tribal organizations that submit applica-
24	tions under this subsection, to plan and carry out
25	programs and activities—

1	(A) to encourage child care providers to
2	improve their qualifications;
3	(B) to retain qualified child care providers
4	in the child care field; and
5	(C) to provide health benefits coverage for
6	child care providers.
7	(2) Applications and requirements.—To
8	be eligible to receive a grant or contract under this
9	subsection, an Indian tribe or tribal organization
10	shall submit an application to the Secretary at such
11	time, in such manner, and containing such informa-
12	tion as the Secretary may require. The application
13	shall provide that the applicant—
14	(A) will coordinate the programs and ac-
15	tivities involved, to the maximum extent prac-
16	ticable, with the lead agency in each State in
17	which the applicant will carry out such pro-
18	grams and activities; and
19	(B) will make such reports on, and conduct
20	such audits of the funds made available through
21	the grant or contract for, programs and activi-
22	ties under this subtitle as the Secretary may re-
23	quire.
24	(d) Data and Information.—The Secretary shall
25	obtain from each appropriate Federal agency, the most re-

1 cent data and information necessary to determine the al-2 lotments provided for in subsection (b).

### (e) Reallotments.—

(1) IN GENERAL.—Any portion of an allotment under subsection (b) to a State for a fiscal year that the Secretary determines will not be distributed to the State for such fiscal year shall be reallotted by the Secretary to other States in proportion to the original corresponding allotments made under such subsection to such States for such fiscal year.

## (2) Limitations.—

- (A) REDUCTION.—The amount of any reallotment to which a State is entitled under this subsection shall be reduced to the extent that such amount exceeds the amount that the Secretary estimates will be distributed to the State to carry out corresponding activities under this subtitle.
- (B) Reallotments.—The amount of such reduction shall be reallotted to States for which no reduction in a corresponding allotment, or in a corresponding reallotment, is required by this subsection, in proportion to the original corresponding allotments made under

1	subsection (b) to such States for such fiscal
2	year.
3	(3) Amounts reallotted.—For purposes of
4	this subtitle (other than this subsection and sub-
5	section (b)), any amount reallotted to a State under
6	this subsection shall be considered to be part of the
7	corresponding allotment made under subsection (b)
8	to the State.
9	(4) Indian tribes or tribal organiza-
10	TIONS.—Any portion of a grant or contract made to
11	an Indian tribe or tribal organization under sub-
12	section (c) that the Secretary determines is not
13	being used in a manner consistent with the provi-
14	sions of this subtitle in the period for which the
15	grant or contract is made available, shall be used by
16	the Secretary to make payments to other tribes or
17	organizations that have submitted applications under
18	subsection (c) in accordance with their respective
19	needs.
20	(f) Cost-Sharing.—
21	(1) CHILD CARE PROVIDER DEVELOPMENT AND
22	RETENTION GRANTS AND SCHOLARSHIPS.—
23	(A) Federal share.—The Federal share
24	of the cost of carrying out activities under sec.

tions 216 and 217, with funds allotted under

1	this section and distributed by the Secretary to
2	a State, shall be—
3	(i) not more than 90 percent of the
4	cost of each grant made under such sec-
5	tions, in the first fiscal year for which the
6	State receives such funds;
7	(ii) not more than 85 percent of the
8	cost of each grant made under such sec-
9	tions, in the second fiscal year for which
10	the State receives such funds;
11	(iii) not more than 80 percent of the
12	cost of each grant made under such sec-
13	tions, in the third fiscal year for which the
14	State receives such funds; and
15	(iv) not more than 75 percent of the
16	cost of each grant made under such sec-
17	tions, in any subsequent fiscal year for
18	which the State receives such funds.
19	(B) Non-federal share.—
20	(i) IN GENERAL.—The State may pro-
21	vide the non-Federal share of the cost in
22	cash or in the form of an in-kind contribu-
23	tion, fairly evaluated by the Secretary.
24	(ii) In-kind contribution.—In this
25	subparagraph, the term "in-kind contribu-

1	tion" means payment of the costs of par-
2	ticipation of eligible child care providers in
3	health insurance programs or retirement
4	programs.
5	(2) CHILD CARE PROVIDER HEALTH BENEFITS
6	COVERAGE.—
7	(A) Federal share.—The Federal share
8	of the cost of carrying out activities under sec-
9	tion 218, with funds allotted under this section
10	and distributed by the Secretary to a State,
11	shall be not more than 50 percent of such cost.
12	(B) Non-federal share.—The State
13	may provide the non-Federal share of the cost
14	in cash or in kind, fairly evaluated by the Sec-
15	retary, including plant, equipment, or services.
16	The State shall provide the non-Federal share
17	directly or through donations from public or
18	private entities. Amounts provided by the Fed-
19	eral Government, or services assisted or sub-
20	sidized to any significant extent by the Federal
21	Government, may not be included in deter-
22	mining the amount of such share.
23	(g) Availability of Allotted Funds Distrib-
24	UTED TO STATES.—Of the funds allotted under this sec-

1	tion for activities described in sections 216 and 217 and
2	distributed by the Secretary to a State for a fiscal year—
3	(1) not less than 67.5 percent shall be available
4	to the State for grants under section 216;
5	(2) not less than 22.5 percent shall be available
6	to the State for grants under section 217; and
7	(3) not more than 10 percent shall be available
8	to pay administrative costs incurred by the State to
9	carry out activities described in sections 216 and
10	217.
11	(h) Definition.—For the purposes of subsections
12	(a) through (e), the term "State" includes only the 50
13	States, the District of Columbia, and the Commonwealth
14	of Puerto Rico.
15	SEC. 215. APPLICATION AND PLAN.
16	(a) APPLICATION.—To be eligible to receive a dis-
17	tribution of funds allotted under section 214, a State shall
18	submit to the Secretary an application at such time, in
19	such manner, and containing such information as the Sec-
20	retary may require by rule and shall include in such appli-
21	cation—
22	(1) a State plan that satisfies the requirements
23	of subsection (b); and

1 (2) assurances of compliance satisfactory to the 2 Secretary with respect to the requirements of section 3 218.

## (b) REQUIREMENTS OF PLAN.—

- (1) LEAD AGENCY.—The State plan shall identify the lead agency to make grants under this subtitle for the State.
- (2) Recruitment and retention of child care providers who are new to the child care field and the retention of qualified child care field.
- (3) NOTIFICATION OF AVAILABILITY OF GRANTS AND BENEFITS.—The State plan shall describe how the lead agency will identify all eligible child care providers in the State and notify the providers of the availability of grants and benefits under this subtitle.
- (4) DISTRIBUTION OF GRANTS.—The State plan shall describe how the lead agency will make grants under sections 216 and 217 to eligible child care providers in selected geographical areas in the State in compliance with the following requirements:

1	(A) SELECTION OF GEOGRAPHICAL
2	AREAS.—For the purpose of making such
3	grants for a fiscal year, the State shall—
4	(i) select a variety of geographical
5	areas, determined by the State, that, col-
6	lectively—
7	(I) include urban areas, suburban
8	areas, and rural areas; and
9	(II) are areas whose residents
10	have diverse income levels; and
11	(ii) give special consideration to geo-
12	graphical areas selected under this sub-
13	paragraph for the preceding fiscal year.
14	(B) SELECTION OF CHILD CARE PRO-
15	VIDERS TO RECEIVE GRANTS.—In making
16	grants under section 216, the State may make
17	grants only to eligible child care providers in
18	geographical areas selected under subparagraph
19	(A), but may give special consideration in such
20	areas to eligible child care providers—
21	(i) who have attained a higher rel-
22	evant educational credential;
23	(ii) who provide a specific kind of
24	child care services;

1	(iii) who provide child care services to
2	populations who meet specific economic
3	characteristics; or
4	(iv) who meet such other criteria as
5	the State may establish.
6	(C) LIMITATION.—The State shall describe
7	how the State will ensure that grants made
8	under section 216 to child care providers will
9	not be used to offset reductions in the com-
10	pensation of such providers.
11	(D) REPORTING REQUIREMENT.—With re-
12	spect to each particular geographical area se-
13	lected under subparagraph (A), the State shall
14	provide an assurance that the State will, for
15	each fiscal year for which such State receives a
16	grant under section 216—
17	(i) include in the report required by
18	section 219, detailed information regard-
19	ing—
20	(I) the continuity of employment
21	of the grant recipients as child care
22	providers with the same employer;
23	(II) with respect to each em-
24	ployer that employed such a grant re-
25	cipient, whether such employer was

1	accredited by a recognized national or
2	State accrediting body during the pe-
3	riod of employment; and
4	(III) to the extent practicable
5	and available to the State, the rate
6	and frequency of employment turnover
7	of qualified child care providers
8	throughout such area,
9	during the 2-year period ending on the
10	deadline for submission of applications for
11	grants under section 216 for that fiscal
12	year; and
13	(ii) provide a follow-up report, not
14	later than 90 days after the end of the suc-
15	ceeding fiscal year that includes informa-
16	tion regarding—
17	(I) the continuity of employment
18	of the grant recipients as child care
19	providers with the same employer;
20	(II) with respect to each em-
21	ployer that employed such a grant re-
22	cipient, whether such employer was
23	accredited by a recognized national or
24	State accrediting body during the pe-
25	riod of employment; and

1	(III) to the extent practicable
2	and available to the State, detailed in-
3	formation regarding the rate and fre-
4	quency of employment turnover of
5	qualified child care providers through-
6	out such area,
7	during the 1-year period beginning on the
8	date on which the grant to the State was
9	made under section 216.
10	(5) CHILD CARE PROVIDER DEVELOPMENT AND
11	RETENTION GRANT PROGRAM.—The State plan shall
12	describe how the lead agency will determine the
13	amounts of grants to be made under section 216 in
14	accordance with the following requirements:
15	(A) Sufficient amounts.—The State
16	shall demonstrate that the amounts of indi-
17	vidual grants to be made under section 216 will
18	be sufficient—
19	(i) to encourage child care providers
20	to improve their qualifications; and
21	(ii) to retain qualified child care pro-
22	viders in the child care field.
23	(B) Amounts to credentialed pro-
24	VIDERS.—Such grants made to eligible child
25	care providers who have a child development as-

sociate credential (or equivalent) and who are employed full-time to provide child care services shall be in an amount that is not less than \$1,000 per year.

- (C) Amounts to providers with higher levels of education.—The State shall make such grants in amounts greater than \$1,000 per year to eligible child care providers who have higher levels of education than the education required for a credential such as a child development associate credential (or equivalent), according to the following requirements:
  - (i) Providers with Baccalaureate Degrees in relevant fields.—An eligible child care provider who has a baccalaureate degree in the area of child development or early child education shall receive a grant under section 216 in an amount that is not less than twice the amount of the grant that is made under section 216 to an eligible child care provider who has an associate of the arts degree in the area of child development or early child education.

1	(ii) Providers with associate de-
2	GREES.—An eligible child care provider
3	who has an associate of the arts degree in
4	the area of child development or early child
5	education shall receive a grant under sec-
6	tion 216 in an amount that is not less
7	than 150 percent of the amount of the
8	grant that is made under section 216 to an
9	eligible child care provider who has a child
10	development associate credential (or equiv-
11	alent) and is employed full-time to provide
12	child care services.
13	(iii) Other providers with bacca-

# (iii) OTHER PROVIDERS WITH BACCA-LAUREATE DEGREES.—

(I) IN GENERAL.—Except as provided in subclause (II), an eligible child care provider who has a baccalaureate degree in a field other than child development or early child education shall receive a grant under section 216 in an amount equal to the amount of the grant that is made under section 216 to an eligible child care provider who has an associate of

1	the arts degree in the area of child de-
2	velopment or early child education.
3	(II) Exception.—If an eligible
4	child care provider who has such a
5	baccalaureate degree obtains addi-
6	tional educational training in the area
7	of child development or early child
8	education, as specified by the State,
9	such provider shall receive a grant
10	under section 216 in an amount equal
11	to the amount of the grant that is
12	made under section 216 to an eligible
13	child care provider who has a bacca-
14	laureate degree specified in clause (i).
15	(D) Amounts to full-time pro-
16	VIDERS.—The State shall make a grant under
17	section 216 to an eligible child care provider
18	who works full-time in a greater amount than
19	the amount of the grant that is made under
20	section 216 to an eligible child care provider
21	who works part-time, based on the State defini-
22	tions of full-time and part-time work.
23	(E) Amounts to experienced pro-
24	VIDERS.—The State shall make grants under
25	section 216 in progressively larger amounts to

- eligible child care providers to reflect the number of years worked as child care providers.
  - (6) DISTRIBUTION OF CHILD CARE PROVIDER SCHOLARSHIPS.—The State plan shall describe how the lead agency will make grants for scholarships in compliance with section 217 and shall specify the types of educational and training programs for which the scholarship grants made under such section may be used, including only programs that—
    - (A) are administered by institutions of higher education that are eligible to participate in student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and
    - (B) lead to a State or nationally recognized credential in the area of child development or early child education, an associate of the arts degree in the area of child development or early child education, or a baccalaureate degree in the area of child development or early child education.
  - (7) EMPLOYER CONTRIBUTION.—The State plan shall describe how the lead agency will encourage employers of child care providers to contribute

1	to the attainment of education goals by eligible child
2	care providers who receive grants under section 217.
3	(8) Supplementation.—The State plan shall
4	provide assurances that amounts received by the
5	State to carry out sections 216, 217, and 218 will
6	be used only to supplement, and not to supplant,
7	Federal, State, and local funds otherwise available to
8	support existing services and activities (as of the
9	date the amounts are used) that—
10	(A) encourage child care providers to im-
11	prove their qualifications and that promote the
12	retention of qualified child care providers in the
13	child care field; or
14	(B) provide health benefits coverage for
15	child care providers.
16	SEC. 216. CHILD CARE PROVIDER DEVELOPMENT AND RE-
17	TENTION GRANT PROGRAM.
18	(a) In General.—A State that receives funds allot-
19	ted under section 214 and made available to carry out this
20	section shall expend such funds to pay for the Federal
21	share of the cost of making grants to eligible child care
22	providers in accordance with this section, to improve the
23	qualifications and promote the retention of qualified child
24	care providers.

- 1 (b) Eligibility To Receive Grants.—To be eligi-
- 2 ble to receive a grant under this section, a child care pro-
- 3 vider shall—

9

(1) have a child development associate credential (or equivalent), an associate of the arts degree in the area of child development or early child education, a baccalaureate degree in the area of child development or early child education, or a bacca-

laureate degree in an unrelated field; and

- 10 (2) be employed as a child care provider for not less than 1 calendar year, or (if the provider is em-11 12 ployed on the date of the eligibility determination in 13 a child care program that operates for less than a 14 full calendar year) the program equivalent of 1 cal-15 endar year, ending on the date of the application for 16 such grant, except that not more than 3 months of 17 education related to child development or to early 18 child education obtained during the corresponding 19 calendar year may be treated as employment that 20 satisfies the requirements of this paragraph.
- 21 (c) Preservation of Eligibility.—A State shall 22 not take into consideration whether a child care provider 23 is receiving, may receive, or may be eligible to receive any 24 funds or benefits under any other provision of this subtitle

- 1 for purposes of selecting eligible child care providers to
- 2 receive grants under this section.

### 3 SEC. 217. CHILD CARE PROVIDER SCHOLARSHIP PROGRAM.

- 4 (a) In General.—A State that receives funds allot-
- 5 ted under section 214 and made available to carry out this
- 6 section shall expend such funds to pay for the Federal
- 7 share of the cost of making scholarship grants to eligible
- 8 child care providers in accordance with this section, to im-
- 9 prove their educational qualifications to provide child care
- 10 services.
- 11 (b) Eligibility Requirement for Scholarship
- 12 Grants.—To be eligible to receive a scholarship grant
- 13 under this section, a child care provider shall be employed
- 14 as a child care provider for not less than 1 calendar year,
- 15 or (if the provider is employed on the date of the eligibility
- 16 determination in a child care program that operates for
- 17 less than a full calendar year) the program equivalent of
- 18 1 calendar year, ending on the date of the application for
- 19 such grant.
- 20 (c) Selection of Grantees.—For purposes of se-
- 21 lecting eligible child care providers to receive scholarship
- 22 grants under this section and determining the amounts of
- 23 such grants, a State shall not—
- 24 (1) take into consideration whether a child care
- provider is receiving, may receive, or may be eligible

- 1 to receive any funds or benefits under any other pro-
- 2 vision of this subtitle, or under any other Federal or
- 3 State law that provides funds for educational pur-
- 4 poses; or
- 5 (2) consider as resources of such provider any
- 6 funds such provider is receiving, may receive, or may
- 7 be eligible to receive under any other provision of
- 8 this subtitle, under any other Federal or State law
- 9 that provides funds for educational purposes, or
- from a private entity.
- 11 (d) Cost-Sharing Required.—The amount of a
- 12 scholarship grant made under this section to an eligible
- 13 child care provider shall be less than the cost of the edu-
- 14 cational or training program for which such grant is made.
- 15 (e) Annual Maximum Scholarship Grant
- 16 Amount.—The maximum aggregate dollar amount of a
- 17 scholarship grant made by a State to an eligible child care
- 18 provider under this section in a fiscal year shall be \$1,500.
- 19 SEC. 218. CHILD CARE PROVIDER HEALTH BENEFITS COV-
- 20 ERAGE.
- 21 (a) SHORT TITLE.—This section may be cited as the
- 22 "Healthy Early Education Workforce Grant Program
- 23 Act".
- (b) Definition.—In this section, the terms "depend-
- 25 ent", "domestic partner", and "spouse", used with respect

- 1 to a State, have the meanings given the terms by the
- 2 State.
- 3 (c) General Authority.—A State that receives
- 4 funds allotted under section 214 and made available to
- 5 carry out this section shall expend such funds to pay for
- 6 the Federal share of the cost of providing access to afford-
- 7 able health benefits coverage for—
- 8 (1) eligible child care providers; and
- 9 (2) at the discretion of the State involved, the
- spouses, domestic partners, and dependents of such
- 11 providers.
- 12 (d) Permissible Activities.—In carrying out sub-
- 13 section (c), the State may expend such funds for any of
- 14 the following:
- 15 (1) To reimburse an employer of an eligible
- 16 child care provider, or the provider, for the employ-
- er's or provider's share (or a portion of the share)
- of the premiums or other costs for coverage under
- 19 group or individual health plans.
- 20 (2) To offset the cost of enrolling eligible child
- care providers in public health benefits plans, such
- as the medicaid program under title XIX of the So-
- cial Security Act (42 U.S.C. 1396 et seq.), the State
- 24 children's health insurance program under title XXI

1	of such Act (42 U.S.C. 1397aa et seq.), or public
2	employee health benefit plans.
3	(3) To otherwise subsidize the cost of health
4	benefits coverage for eligible child care providers.
5	(e) Eligibility Criteria for Health Benefits
6	COVERAGE.—The State may establish criteria to limit the
7	child care providers who may receive benefits through the
8	allotment.
9	(f) Selection of Grantees.—For purposes of se-
10	lecting eligible child care providers to receive benefits
11	under this section for a fiscal year, a State shall give—
12	(1) highest priority to—
13	(A) providers that meet any applicable cri-
14	teria established in accordance with subsection
15	(e) and received such assistance during the pre-
16	vious fiscal year; and
17	(B) at the State's discretion, the spouses,
18	domestic partners, and dependents of such pro-
19	viders; and
20	(2) second highest priority to—
21	(A) providers that meet any applicable cri-
22	teria established in accordance with subsection
23	(e) and are accredited by the National Associa-
24	tion for the Education of Young Children or the

1	National Association for Family Child Care;
2	and
3	(B) at the State's discretion, the spouses,
4	domestic partners, and dependents of such pro-
5	viders.
6	SEC. 219. ANNUAL REPORT.
7	A State that receives funds appropriated to carry out
8	this subtitle for a fiscal year shall submit to the Secretary,
9	not later than 90 days after the end of such fiscal year,
10	a report—
11	(1) specifying the uses for which the State ex-
12	pended such funds, and the aggregate amount of
13	funds (including State funds) expended for each of
14	such uses; and
15	(2) containing available data relating to grants
16	made and benefits provided with such funds, includ-
17	ing—
18	(A) the number of eligible child care pro-
19	viders who received such grants and benefits;
20	(B) the amounts of such grants and bene-
21	fits;
22	(C) any other information that describes or
23	evaluates the effectiveness of this subtitle;

1	(D) the particular geographical areas se-
2	lected under section 215 for the purpose of
3	making such grants;
4	(E) with respect to grants made under sec-
5	tion 216—
6	(i) the number of years grant recipi-
7	ents have been employed as child care pro-
8	viders;
9	(ii) the level of training and education
10	of grant recipients;
11	(iii) to the extent practicable and
12	available to the State, detailed information
13	regarding the salaries and other compensa-
14	tion received by grant recipients to provide
15	child care services before, during, and after
16	receiving such grants;
17	(iv) the number of children who re-
18	ceived child care services provided by grant
19	recipients;
20	(v) information on family demo-
21	graphics of such children;
22	(vi) the types of settings described in
23	subparagraphs (A), (B), and (C) of section
24	212(1) in which grant recipients are em-
25	ployed; and

1	(vii) the ages of the children who re-
2	ceived child care services provided by grant
3	recipients;
4	(F) with respect to grants made under sec-
5	tion 217—
6	(i) the number of years grant recipi-
7	ents have been employed as child care pro-
8	viders;
9	(ii) the level of training and education
10	of grant recipients;
11	(iii) to the extent practicable and
12	available to the State, detailed information
13	regarding the salaries and other compensa-
14	tion received by grant recipients to provide
15	child care services before, during, and after
16	receiving such grants;
17	(iv) the types of settings described in
18	subparagraphs (A), (B), and (C) of section
19	212(1) in which grant recipients are em-
20	ployed;
21	(v) the ages of the children who re-
22	ceived child care services provided by grant
23	recipients;

1	(vi) the number of course credits or
2	credentials obtained by grant recipients;
3	and
4	(vii) the amount of time taken for
5	completion of the educational and training
6	programs for which such grants were
7	made; and
8	(G) such other information as the Sec-
9	retary may require by rule.
10	SEC. 220. EVALUATION OF HEALTH BENEFITS PROGRAMS
11	BY SECRETARY.
12	(a) EVALUATION.—The Secretary shall conduct an
13	evaluation of several State programs carried out with
14	grants made under section 218, representing various ap-
15	proaches to raising the rate of child care providers with
16	health benefits coverage.
17	(b) Assessment of Impacts.—In evaluating State
18	programs under subsection (a), the Secretary may con-
19	sider any information appropriate to measure the success
20	of the programs, and shall assess the impact of the pro-
21	grams on the following:
22	(1) The rate of child care providers with health
23	benefits coverage.
24	(2) The take-up rate by eligible child care pro-
25	viders.

- 1 (3) The turnover rate in the child care field.
- 2 (4) The average wages paid to a child care pro-
- 3 vider.
- 4 (c) Report.—Not later than 3 years after the date
- 5 of enactment of this subtitle, the Secretary shall prepare
- 6 and submit a report to Congress containing the results
- 7 of the evaluation conducted under subsection (a), together
- 8 with recommendations for strengthening programs carried
- 9 out with grants made under section 218.

#### 10 SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

- 11 (a) Child Care Provider Development, Reten-
- 12 TION, AND SCHOLARSHIPS.—There are authorized to be
- 13 appropriated to carry out the activities described in sec-
- 14 tions 216 and 217 \$500,000,000 for fiscal year 2012 and
- 15 such sums as may be necessary for each of fiscal years
- 16 2012 through 2016.
- 17 (b) CHILD CARE PROVIDER HEALTH BENEFITS COV-
- 18 Erage.—There is authorized to be appropriated to carry
- 19 out the activities described in section 218 \$200,000,000
- 20 for fiscal year 2011 and such sums as may be necessary
- 21 for each of fiscal years 2012 through 2016.

# Subtitle C—Child Care Facilities

2	Financing
3	SEC. 231. SHORT TITLE.
4	This subtitle may be cited as the "Child Care Facili-
5	ties Financing Act".
6	SEC. 232. TECHNICAL AND FINANCIAL ASSISTANCE
7	GRANTS.
8	(a) Grant Authority.—The Secretary may make
9	grants on a competitive basis to eligible entities in accord-
10	ance with this section.
11	(b) Application.—
12	(1) In general.—To be eligible to receive a
13	grant under subsection (a), an eligible entity shall
14	submit to the Secretary an application at such time
15	in such form, and containing such information as
16	the Secretary may require by rule.
17	(2) Requirements.—The Secretary shall issue
18	rules that take into account the experience and suc-
19	cess of eligible entities in attracting private financ-
20	ing and carrying out the types of activities for which
21	grants under subsection (a) are made.
22	(c) Priority.—In making grants under subsection
23	(a), the Secretary shall give priority to an applicant—
24	(1) that has demonstrated experience—

1	(A) providing technical or financial assist-
2	ance for the acquisition, construction, or ren-
3	ovation of child care facilities;
4	(B) providing technical, financial, or mana-
5	gerial assistance to eligible child care providers;
6	and
7	(C) securing private sources of capital fi-
8	nancing for child care or other low-income com-
9	munity development; and
10	(2) whose application proposes to assist eligible
11	recipients that serve—
12	(A) low-income areas, including—
13	(i) a community that—
14	(I) is in a metropolitan area; and
15	(II) has a median household in-
16	come that is not more than 80 percent
17	of the median household income of the
18	metropolitan area; or
19	(ii) a community that—
20	(I) is not in a metropolitan area;
21	and
22	(II) has a median income that is
23	not more than 80 percent of the me-
24	dian household income of the State in
25	which the community is located; or

1	(B) low-income individuals, including eligi-
2	ble children.
3	(d) Use of Funds.—
4	(1) Capital fund.—Each eligible entity that
5	receives a grant under subsection (a) shall deposit
6	the grant amount into a child care capital fund es-
7	tablished by the eligible entity.
8	(2) Payments from funds.—Each eligible en-
9	tity shall provide technical or financial assistance (in
10	the form of loans, grants, investments, guarantees,
11	interest subsidies, and other appropriate forms of
12	assistance) to eligible recipients from the child care
13	capital fund it establishes to pay for—
14	(A) the acquisition, construction, or im-
15	provement of child care facilities;
16	(B) equipment for child care facilities; or
17	(C) technical assistance to eligible child
18	care providers to help them undertake facilities
19	improvement and expansion projects.
20	(3) Loan repayments and investment pro-
21	CEEDS.—An eligible entity that receives a loan re-
22	payment or investment proceeds from an eligible re-
23	cipient shall deposit such repayment or proceeds into
24	the child care capital fund of the eligible entity for

use in accordance with this section.

1 (4) APPLICATION.—To obtain assistance from 2 an eligible entity, an eligible recipient shall prepare 3 and submit an application to an eligible entity at 4 such time, in such form, and containing such infor-5 mation as the eligible entity may require.

### 6 SEC. 233. DEFINITIONS.

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- 7 As used in this subtitle:
- 8 (1) CHILD CARE FACILITY.—The term "child 9 care facility" means a structure used for the care 10 and development of eligible children.
  - (2) CHILD CARE SERVICES.—The term "child care services" means child care and early childhood education.
  - (3) COMMUNITY DEVELOPMENT FINANCIAL IN-STITUTION.—The term "community development financial institution" has the meaning given such term in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).
  - (4) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" has the meaning given such term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

1	(5) ELIGIBLE CHILD.—The term "eligible
2	child" has the meaning given such term in section
3	658P of the Child Care and Development Block
4	Grant Act of 1990 (42 U.S.C. 9858n).
5	(6) ELIGIBLE ENTITY.—The term "eligible enti-
6	ty'' means—
7	(A) a community development financial in-
8	stitution certified by the Department of Treas-
9	ury; or
10	(B) an organization that—
11	(i) is described in section 501(c)(3) of
12	the Internal Revenue Code of 1986;
13	(ii) is exempt from taxation under
14	section 501(a) of such Code; and
15	(iii) has demonstrated experience in—
16	(I) providing technical or finan-
17	cial assistance for the acquisition, con-
18	struction, or renovation of child care
19	facilities;
20	(II) providing technical, financial,
21	or managerial assistance to eligible
22	child care providers; and
23	(III) securing private sources of
24	capital financing for child care or

1	other low-income community develop-
2	ment.
3	(7) ELIGIBLE RECIPIENT.—The term "eligible
4	recipient" means—
5	(A) an eligible child care provider that pro-
6	vides child care services to an eligible child;
7	(B) an organization seeking to provide
8	child care services to an eligible child; or
9	(C) an organization providing or seeking to
10	provide child care services to low-income chil-
11	dren as determined by the Secretary.
12	(8) Equipment.—The term "equipment" in-
13	cludes—
14	(A) machinery, utilities, and built-in equip-
15	ment, and any necessary structure to house
16	them; and
17	(B) any other items necessary for the func-
18	tioning of a child care facility, including fur-
19	niture, books, and program materials.
20	(9) Metropolitan area.—The term "metro-
21	politan area" has the meaning given such term in
22	section 102 of the Housing and Community Devel-
23	opment Act of 1974 (42 U.S.C. 5302).
24	(10) Secretary.—The term "Secretary"
25	means the Secretary of Health and Human Services.

### 1 SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

- 2 There is authorized to be appropriated to carry out
- 3 this subtitle \$50,000,000 for each of the fiscal years 2012
- 4 through 2016.

# 5 Subtitle D—Business Child Care

# 6 Incentive Grant Program

- 7 SEC. 241. BUSINESS CHILD CARE INCENTIVE GRANT PRO-
- 8 GRAM.
- 9 (a) Establishment.—The Secretary of Health and
- 10 Human Services (referred to in this section as the "Sec-
- 11 retary") shall establish a program to award grants to
- 12 States, on a competitive basis, to assist States in providing
- 13 funds to encourage the establishment and operation of em-
- 14 ployer operated child care programs.
- 15 (b) APPLICATION.—To be eligible to receive a grant
- 16 under this section, a State shall prepare and submit to
- 17 the Secretary an application at such time, in such manner,
- 18 and containing such information as the Secretary may re-
- 19 quire, including an assurance that the funds required
- 20 under subsection (e) will be provided.
- 21 (c) Amount of Grant.—The Secretary shall deter-
- 22 mine the amount of a grant to a State under this section
- 23 based on the population of children less than 5 years of
- 24 age in the State as compared to the population of all
- 25 States receiving grants under this section.
- 26 (d) Use of Funds.—

1	(1) In general.—A State shall use amounts
2	provided under a grant awarded under this section
3	to provide assistance to businesses located in the
4	State to enable the businesses to establish and oper-
5	ate child care programs. Such assistance may in-
6	clude—
7	(A) technical assistance in the establish-
8	ment of a child care program;
9	(B) assistance for the startup costs related
10	to a child care program;
11	(C) assistance for the training of child care
12	providers;
13	(D) scholarships for low-income wage earn-
14	ers;
15	(E) the provision of services to care for
16	sick children or to provide care to school aged
17	children;
18	(F) the entering into of contracts with
19	local resource and referral or local health de-
20	partments;
21	(G) assistance for care for children with
22	disabilities; or
23	(H) assistance for any other activity deter-
24	mined appropriate by the State.

(2) APPLICATION.—To be eligible to receive assistance from a State under this section, a business shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

### (3) Preference.—

- (A) IN GENERAL.—In providing assistance under this section, a State shall give priority to applicants that desire to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.
- (B) Consortium.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that may include businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.
- (4) Limitation.—With respect to grant funds received under this section, a State may not provide in excess of \$100,000 in assistance from such funds to any single applicant.
- (e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by an entity receiving assistance in carrying

1	out activities under this section, the entity will make avail-
2	able (directly or through donations from public or private
3	entities) non-Federal contributions to such costs in an
4	amount equal to—
5	(1) for the first fiscal year in which the entity
6	receives such assistance, not less than 50 percent of
7	such costs (\$1 for each \$1 of assistance provided to

(2) for the second fiscal year in which the entity receives such assistance, not less than 662/3 percent of such costs (\$2 for each \$1 of assistance provided to the entity under the grant); and

the entity under the grant);

- 13 (3) for the third fiscal year in which the entity 14 receives such assistance, not less than 75 percent of 15 such costs (\$3 for each \$1 of assistance provided to 16 the entity under the grant).
- 17 (f) Requirements of Providers.—To be eligible
  18 to receive assistance under a grant awarded under this
  19 section a child care provider shall comply with all applica20 ble State and local licensing and regulatory requirements
  21 and all applicable health and safety standards in effect
  22 in the State.
- 23 (g) Administration.—
- 24 (1) STATE RESPONSIBILITY.—A State shall 25 have responsibility for administering a grant award-

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ed for the State under this section and for monitoring entities that receive assistance under such grant.

(2) Audits.—A State shall require each entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the entity. Such audits shall be submitted to the State.

### (3) Misuse of funds.—

- (A) Repayment.—If the State determines, through an audit or otherwise, that an entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such an entity the repayment of an amount equal to the amount of any such misused assistance plus interest.
- (B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.
- (h) Reporting Requirements.—
- 24 (1) 2-YEAR STUDY.—

1	(A) In General.—Not later than 2 years
2	after the date on which the Secretary first
3	awards grants under this section, the Secretary
4	shall conduct a study to determine—
5	(i) the capacity of entities to meet the
6	child care needs of communities within
7	States;
8	(ii) the kinds of partnerships that are
9	being formed with respect to child care at
10	the local level to carry out programs fund-
11	ed under this section; and
12	(iii) who is using the programs funded
13	under this section and the income levels of
14	such individuals.
15	(B) Report.—Not later than 28 months
16	after the date on which the Secretary first
17	awards grants under this section, the Secretary
18	shall prepare and submit to the appropriate
19	committees of Congress a report on the results
20	of the study conducted in accordance with sub-
21	paragraph (A).
22	(2) 4-YEAR STUDY.—
23	(A) IN GENERAL.—Not later than 4 years
24	after the date on which the Secretary first
25	awards grants under this section, the Secretary

shall conduct a study to determine the number
of child care facilities funded through entities
that received assistance through a grant awarded under this section that remain in operation
and the extent to which such facilities are meeting the child care needs of the individuals
served by such facilities.

- (B) Report.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).
- 15 (i) Definition.—In this section, the term "busi-16 ness" means an employer who employed an average of at 17 least 2 employees on business days during the preceding 18 calendar year.
  - (j) Authorization of Appropriations.—
- 20 (1) IN GENERAL.—There is authorized to be 21 appropriated to carry out this section, \$60,000,000 22 for the period of fiscal years 2012 through 2016.
- 23 (2) EVALUATIONS AND ADMINISTRATION.—
  24 With respect to the total amount appropriated for
  25 such period in accordance with this subsection, not

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- 1 more than \$5,000,000 of that amount may be used
- 2 for expenditures related to conducting evaluations
- 3 required under, and the administration of, this sec-
- 4 tion.
- 5 (k) Termination of Program.—The program es-
- 6 tablished under subsection (a) shall terminate on Sep-
- 7 tember 30, 2017.

## 8 TITLE III—PRE-SCHOOL, IN-

- 9 SCHOOL, AND AFTER SCHOOL
- 10 **ASSISTANCE**
- 11 Subtitle A—Universal
- 12 Prekindergarten Act
- 13 SEC. 301. SHORT TITLE.
- 14 This subtitle may be cited as the "Universal Pre-
- 15 kindergarten Act".
- 16 **SEC. 302. PURPOSE.**
- 17 The purpose of this subtitle is to ensure that all chil-
- 18 dren 3, 4, and 5 years old have access to a high-quality
- 19 full-day, full-calendar-year prekindergarten program by
- 20 providing grants to States to assist in developing a uni-
- 21 versal prekindergarten program that is voluntary and free-
- 22 of-charge.

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1	SEC. 303. PREKINDERGARTEN GRANT PROGRAM AUTHOR-
2	IZATION.
3	The Secretary of Health and Human Services, in con-
4	sultation with the Secretary of Education, shall provide
5	grants to an agency designated by each State (hereafter
6	in this subtitle referred to as the "designated State agen-
7	cy") for the development of high-quality full-day, full-cal-
8	endar-year universal prekindergarten programs for all
9	children 3, 4, and 5 years old in the State.
10	SEC. 304. STATE REQUIREMENTS.
11	(a) STATE MATCHING FUNDS.—Federal funds made
12	available to a designated State agency under this subtitle
13	shall be matched at least 20 percent by State funds.
14	(b) STATE APPLICATION.—To be eligible to receive
15	funds under this subtitle, a designated State agency shall
16	submit an application at such time, in such manner, and
17	containing such information as the Secretary of Health
18	and Human Services may require. The application shall
19	include the following:
20	(1) How the designated State agency, in over-
21	seeing the State's universal prekindergarten pro-
22	gram, will coordinate with other State agencies re-

sponsible for early childhood education and health

programs.

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1	(2) A State plan to establish and implement a
2	statewide universal prekindergarten program, in ac-
3	cordance with subsection (c).
4	(c) State Plan.—The State plan required under
5	subsection (b)(2) shall include each of the following:
6	(1) A description of the universal prekinder-
7	garten program that will be established and how it
8	will support children's cognitive, social, emotional,
9	and physical development.
10	(2) A statement of the goals for universal pre-
11	kindergarten programs and how program outcomes
12	will be measured.
13	(3) A description of—
14	(A) how funding will be distributed to eli-
15	gible prekindergarten program providers based
16	on the need for early childhood education in
17	each geographical area served by such pro-
18	viders; and
19	(B) how the designated State agency will
20	involve representatives of early childhood pro-
21	gram providers (including child care providers,
22	Head Start programs, and State and local
23	agencies) that sponsor programs addressing
24	children 3, 4, and 5 years old.

- 1 (4) A description of how the designated State
  2 agency will coordinate with existing State-funded
  3 prekindergarten programs, federally funded pro4 grams (such as Head Start programs), public school
  5 programs, and child care providers.
  - (5) A description of how an eligible prekindergarten program provider may apply to the designated State agency for funding under this Act.
  - (6) A plan to address the shortages of qualified early childhood education teachers, including how to increase such teachers' compensation to be comparable to that of public school teachers.
  - (7) How the designated State agency will provide ongoing professional development opportunities to help increase the number of teachers in early childhood programs who meet the State's education or credential requirements for prekindergarten teachers.
  - (8) A plan to address how the universal prekindergarten program will meet the needs of children with disabilities, limited English proficiency, and other special needs.
  - (9) A plan to provide transportation to children to and from the universal prekindergarten program.

1	(10) A description of how the State will provide
2	the 20 percent match of Federal funds.
3	(d) Administration.—A designated State agency
4	may not use more than 5 percent of a grant under this
5	subtitle for costs associated with State administration of
6	the program under this subtitle.
7	SEC. 305. LOCAL REQUIREMENTS.
8	(a) In General.—An eligible prekindergarten pro-
9	gram provider receiving funding under this subtitle
10	shall—
11	(1) maintain a maximum class size of 20 chil-
12	dren;
13	(2) maintain a ratio of not more than 10 chil-
14	dren for each member of the teaching staff;
15	(3)(A) ensure that all prekindergarten teachers
16	meet the requirements for teachers at a State-fund-
17	ed prekindergarten program under an applicable
18	State law; and
19	(B) document that the State is demonstrating
20	significant progress in assisting prekindergarten
21	teachers on working toward a bachelor of arts de-
22	gree with training in early childhood development or
23	early childhood education;

1	(4)(A) be accredited by a national organization
2	with demonstrated experience in accrediting pre-
3	kindergarten programs; or
4	(B) provide assurances that it shall obtain such
5	accreditation not later than 3 years after first re-
6	ceiving funding under this subtitle; and
7	(5) meet applicable State and local child care li-
8	censing health and safety standards.
9	(b) Local Application.—Eligible prekindergarten
10	program providers desiring to receive funding under this
11	subtitle shall submit an application to the designated
12	State agency overseeing funds under this subtitle con-
13	taining the following:
14	(1) A description of the prekindergarten pro-
15	gram.
16	(2) A statement of the demonstrated need for
17	a program, or an enhanced or expanded program, in
18	the area served by the eligible prekindergarten pro-
19	gram provider.
20	(3) A description of the age-appropriate and de-
21	velopmentally appropriate educational curriculum to
22	be provided that will help children be ready for
23	school and assist them in the transition to kinder-

garten.

- 1 (4) A description of how the eligible prekinder-2 garten program provider will collaborate with exist-3 ing community-based child care providers and Head 4 Start programs.
  - (5) A description of how students and families will be assisted in obtaining supportive services available in their communities.
- 8 (6) A plan to promote parental involvement in 9 the prekindergarten program.
  - (7) A description of how teachers will receive ongoing professional development in early childhood development and education.
- 13 (8) An assurance that prekindergarten pro-14 grams receiving funds under this subtitle provide the 15 data required in section 7(c).

#### 16 SEC. 306. PROFESSIONAL DEVELOPMENT SET-ASIDE.

- 17 (a) IN GENERAL.—A designated State agency may 18 set aside up to 5 percent of a grant under this subtitle
- 19 for ongoing professional development activities for teach-
- 20 ers and staff at prekindergarten programs that wish to
- 21 participate in the universal prekindergarten grant pro-
- 22 gram under this subtitle. A designated State agency using
- 23 the set-aside for professional development must include in
- 24 its application the following:

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- 1 (1) A description of how the designated State 2 agency will ensure that eligible prekindergarten pro-3 gram providers in a range of settings (including 4 child care providers, Head Start programs, and 5 schools) will participate in the professional develop-6 ment programs.
  - (2) An assurance that, in developing its application and in carrying out its program, the professional development provider has consulted, and will consult, with relevant agencies, early childhood organizations, early childhood education experts, and early childhood program providers.
  - (3) A description of how the designated State agency will ensure that the professional development is ongoing and accessible to educators in all geographic areas of the State, including by the use of advanced educational technologies.
  - (4) A description of how the designated State agency will ensure that such set-aside funds will be used to pay the cost of additional education and training.
  - (5) A description of how the designated State agency will work with other agencies and institutions of higher education to provide scholarships and other financial assistance to prekindergarten staff.

1	(6) A description of how the State educational
2	agency will provide a financial incentive, such as a
3	financial stipend or a bonus, to educators who par-
4	ticipate in and complete such professional develop-
5	ment.
6	(7) A description of how the professional devel-
7	opment activities will be carried out, including the
8	following:
9	(A) How programs and educators will be
10	selected to participate.
11	(B) How professional development pro-
12	viders will be selected, based on demonstrated
13	experience in providing research-based profes-
14	sional development to early childhood educators.
15	(C) The types of research-based profes-
16	sional development activities that will be carried
17	out in all domains of children's physical, cog-
18	nitive, social, and emotional development and
19	on early childhood pedagogy.
20	(D) How the program will train early
21	childhood educators to meet the diverse edu-
22	cational needs of children in the community, es-
23	pecially children who have limited English pro-

ficiency, disabilities, and other special needs.

1	(E) How the program will coordinate with
2	and build upon, but not supplant or duplicate
3	early childhood education professional develop-
4	ment activities that exist in the community.
5	(b) Uses of Funds.—Funds set aside under this
6	section may be used for ongoing professional develop-
7	ment—
8	(1) to provide prekindergarten teachers and
9	staff with the knowledge and skills for the applica-
10	tion of recent research on child cognitive, social
11	emotional, and physical development, including lan-
12	guage and literacy development, and on early child-
13	hood pedagogy;
14	(2) to provide the cost of education needed to
15	obtain a credential or degree with specific training
16	in early childhood development or education;
17	(3) to work with children who have limited
18	English proficiency, disabilities, and other special
19	needs; and
20	(4) to select and use developmentally appro-
21	priate screening and diagnostic assessments to im-
22	prove teaching and learning and make appropriate
23	referrals for services to support prekindergarter

children's development and learning.

#### 1 SEC. 307. REPORTING.

2. (	(a)	REPORT BY	SECRETARY.	—For each	vear in	which
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- 3 funding is provided under this subtitle, the Secretary of
- 4 Health and Human Services shall submit an annual report
- 5 to the Congress on the implementation and effectiveness
- 6 of the universal prekindergarten program under this sub-
- 7 title.
- 8 (b) Report by Designated State Agency.—Each
- 9 designated State agency that provides grants to eligible
- 10 prekindergarten program providers under this subtitle
- 11 shall submit to the Secretary an annual report on the im-
- 12 plementation and effectiveness of the programs in the
- 13 State supported under this subtitle. Such report shall con-
- 14 tain such additional information as the Secretary may rea-
- 15 sonably require.
- 16 (c) REPORT BY GRANT RECIPIENT.—Each eligible
- 17 prekindergarten program provider that receives a grant
- 18 under this subtitle shall submit to the designated State
- 19 agency an annual report that includes, with respect to the
- 20 program supported by such grant, the following:
- 21 (1) A description of the type of program and a
- statement of the number and ages of children served
- by the program, as well as the number and ages of
- 24 children with a disability or a native language other
- 25 than English.

1	(2) A description of the qualifications of the
2	program staff and the type of ongoing professional
3	development provided to such staff.
4	(3) A statement of all sources of Federal, State,
5	local, and private funds received by the program.
6	(4) A description of the curricula, materials,
7	and activities used by the program to support early
8	childhood development and learning.
9	(5) Such other information as the designated
10	State agency may reasonably require.
11	SEC. 308. FEDERAL FUNDS SUPPLEMENTARY.
12	Funds made available under this subtitle may not be
13	used to supplant other Federal, State, local, or private
14	funds that would, in the absence of such Federal funds,
15	be made available for the program assisted under this sub-
16	title.
17	SEC. 309. DEFINITIONS.
18	In this subtitle:
19	(1) The term "eligible prekindergarten program
20	provider" means a prekindergarten program pro-
21	vider that is—
22	(A) a school;
23	(B) supported, sponsored, supervised, or
24	carried out by a local educational agency;
25	(C) a Head Start program; or

1	(D) a child care provider.
2	(2) The term "prekindergarten program"
3	means a program serving children 3, 4, and 5 years
4	old that supports children's cognitive, social, emo-
5	tional, and physical development and helps prepare
6	those children for the transition to kindergarten.
7	(3) The term "local educational agency" has
8	the meaning given that term in the Elementary and
9	Secondary Education Act of 1965 (20 U.S.C. 6301
10	et seq.).
11	(4) The term "prekindergarten teacher" means
12	an individual who has received, or is working to-
13	ward, a bachelor of arts degree in early childhood
14	education.
15	SEC. 310. AUTHORIZATION OF APPROPRIATIONS.
16	There are authorized to be appropriated to carry out
17	this subtitle—
18	(1) \$10,000,000,000 for fiscal year 2012;
19	(2) \$20,000,000,000 for fiscal year 2013;
20	(3) \$30,000,000,000 for fiscal year 2014;
21	(4) \$40,000,000,000 for fiscal year 2015; and
22	(5) \$50.000.000.000 for fiscal year 2016.

## Subtitle B—Universal Free School 1 **Breakfast Program** 2 SEC. 311. UNIVERSAL FREE SCHOOL BREAKFAST PRO-4 GRAM. 5 (a) Free Breakfast and Universal Eligi-BILITY.—Section 4 of the Child Nutrition Act of 1966 (42) 7 U.S.C. 1773) is amended to read as follows: "SEC. 4. SCHOOL BREAKFAST PROGRAM AUTHORIZATION. 9 "(a) AUTHORIZATION OF APPROPRIATIONS.—There 10 are authorized to be appropriated such sums as are nec-11 essary to enable the Secretary to carry out a program to 12 assist States and the Department of Defense to initiate, maintain, or expand nonprofit breakfast programs to pro-13 vide free breakfasts to school children without regard to family income in all schools which make application for participation and agree to carry out a nonprofit free breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered 18 Health and Human Services functions for budget purposes 20 rather than functions of Agriculture. 21 "(b) Apportionment to States.— 22 "(1)(A) IN GENERAL.—The Secretary shall 23 make breakfast payments to each State educational

agency each fiscal year, at such times as the Sec-

retary may determine, from the sums appropriated

24

1	for such purpose, in an amount equal to the product
2	obtained by multiplying—
3	"(i) the number of breakfasts served free
4	during such fiscal year to children in schools in
5	such States which participate in the school
6	breakfast program under agreements with such
7	State educational agency; by
8	"(ii) the national breakfast payment as
9	prescribed in paragraph (2) of this subsection.
10	"(B) AGREEMENTS.—The agreements described
11	in subparagraph (A)(i) shall be permanent agree-
12	ments that may be amended as necessary. Nothing
13	in the preceding sentence shall be construed to limit
14	the ability of the State educational agency to sus-
15	pend or terminate any such agreement in accordance
16	with regulations prescribed by the Secretary.
17	"(2) National Breakfast Payment.—The
18	national payment for each breakfast shall be \$1.40
19	(as adjusted each July 1 pursuant to section
20	11(a)(3)(B) of the Richard B. Russell National
21	School Lunch Act (42 U.S.C. 1759a(a)(3)(B))).
22	"(3) Limitation.—No breakfast payment may
23	be made under this subsection for any breakfast
24	served by a school unless such breakfast consists of
25	a combination of foods which meet the minimum nu-

- tritional requirements prescribed by the Secretary under subsection (e) of this section.
- "(4) NUTRITION QUALITY ADJUSTMENT.—The
  Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this
  Act and section 17 of the Richard B. Russell National School Lunch Act. These funds shall be used
  to assist States, to the extent feasible, in improving
  the nutritional quality of the breakfasts.
  - "(5) AGRICULTURAL COMMODITIES.—Notwithstanding any other provision of law, whenever stocks
    of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are
    not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to
    school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in
    value to not less than 3 cents for each breakfast
    served under this Act.
  - "(6) EFFECT ON EXPENDITURES.—Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be

1	diminished as a result of funds or commodities re-
2	ceived under paragraph (4) or (5).
3	"(c) State Disbursement to Schools.—Funds
4	paid to any State during any fiscal year for the purpose
5	of this section shall be disbursed by the State educational
6	agency, in accordance with such agreements approved by
7	the Secretary as may be entered into by such State agency
8	and the schools in the State, to those schools in the State
9	which the State educational agency, determines are eligi-
10	ble to participate in the school breakfast program.
11	"(d) Participation by Schools.—
12	"(1) REQUIREMENTS FOR PARTICIPATION.—To
13	be eligible to participate in the school breakfast pro-
14	gram under this section, a school food authority
15	shall—
16	"(A) agree to serve all breakfasts at no
17	charge to all students who wish to participate
18	without regard to family income in all partici-
19	pating schools; and
20	"(B) meet all other requirements that the
21	Secretary may reasonably establish.
22	"(2) Start-up assistance.—The Secretary is
23	authorized to provide additional assistance to schools
24	not participating in the school breakfast program
25	prior to the enactment of the Family and Workplace

- Balancing Act of 2011 in order to assist such schools to begin participation in the school breakfast program under this section.
- 4 "(3) State educational agency assist-5 ANCE.—Each State educational agency shall assist 6 schools not participating in the school breakfast pro-7 gram prior to the enactment of the Family and Workplace Balancing Act of 2011 to enter into 8 9 agreements with such agencies in order to partici-10 pate in the school breakfast program under this sec-11 tion.
- 12 "(e) Nutritional and Other Program Require-13 ments.—
- "(1) 14 MINIMUM NUTRITIONAL REQUIRE-15 MENTS.—Breakfasts served by schools participating 16 in the school breakfast program under this section 17 shall consist of a combination of foods and shall 18 meet minimum nutritional requirements prescribed 19 by the Secretary on the basis of tested nutritional 20 research, except that the minimum nutritional re-21 quirements shall be measured by not less than the 22 weekly average of the nutrient content of school 23 breakfasts.
- 24 "(2) TECHNICAL ASSISTANCE AND TRAINING.—
  25 The Secretary shall provide through State edu-

cational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to paragraph (1) and in providing appropriate meals to children with medically certified special dietary needs.

"(3) OPTION VERSUS SERVE.—At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this Act to a school for the breakfast.".

### (b) Technical Amendments.—

(1) CHILD NUTRITION ACT OF 1966.—Section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking subsection (b) and re-

1	designating subsections (c) through (e) as sub-
2	sections (b) through (d), respectively.
3	(2) RICHARD B. RUSSELL NATIONAL SCHOOL
4	LUNCH ACT.—The Richard B. Russell National
5	School Lunch Act is amended—
6	(A) in section 11(a)(1)—
7	(i) in subparagraph (C), by striking
8	"or breakfasts" each place it appears;
9	(ii) in subparagraph (C)(i)(I), by
10	striking "or in the case of a school" and
11	all that follows through "4 successive
12	school years'';
13	(iii) in subparagraph (D)(iii), by strik-
14	ing ", or for free and reduced price lunches
15	and breakfasts,";
16	(iv) in subparagraph (D)(iv), by strik-
17	ing "or school breakfast";
18	(v) in subparagraph $(E)(i)(I)$ , by
19	striking "or in the case of a school" and
20	all that follows through "4 successive
21	school years"; and
22	(vi) in subparagraph (E)(i)(II)—
23	(I) by striking "or breakfasts"
24	both places it appears; and

1	(II) by striking "or school break-
2	fast";
3	(B) in section 11(a)(3)(A)—
4	(i) by striking clause (iii); and
5	(ii) by redesignating clause (iv) as
6	clause (iii);
7	(C) in section 13(a)(1)(C), by striking "or
8	breakfasts"; and
9	(D) in section 17—
10	(i) in subsection (c), by striking para-
11	graph (2), and redesignating paragraphs
12	(3) through (6) as paragraphs (2) through
13	(5), respectively; and
14	(ii) in subsection $(f)(3)(E)(ii)(I)$ , by
15	striking "meals" and inserting "lunches".
16	Subtitle C—Afterschool Education
17	Enhancement Act
18	SEC. 341. SHORT TITLE.
19	This subtitle may be cited as the "Afterschool Edu-
20	cation Enhancement Act''.
21	SEC. 342. AMENDMENTS REGARDING 21ST CENTURY COM-
22	MUNITY LEARNING CENTERS.
23	Part B of title IV of the Elementary and Secondary
24	Education Act of 1965 (20 U.S.C. 7171 et seq.) is amend-
25	ed—

1	(1) in subsection (a) of section 4203—
2	(A) by striking paragraph (3); and
3	(B) by redesignating paragraphs (4)
4	through (14) as paragraphs (3) through (13),
5	respectively; and
6	(2) in section 4204—
7	(A) in paragraph (2) of subsection (b)—
8	(i) by striking subparagraph (F); and
9	(ii) by redesignating subparagraphs
10	(G) through (N) as subparagraphs (F)
11	through (M), respectively; and
12	(B) by amending paragraph (1) of sub-
13	section (i) to read as follows:
14	"(1) In general.—In awarding grants under
15	this part, a State educational agency shall give pri-
16	ority to applications submitted jointly by eligible en-
17	tities consisting of not less than—
18	"(A) 1 local educational agency receiving
19	funds under part A of title I; and
20	"(B) 1 community-based organization or
21	other public or private entity.".

1	TITLE IV—IMPROVING THE
2	WORKPLACE FOR FAMILIES
3	Subtitle A—Part-Time and
4	<b>Temporary Workers Benefits</b>
5	SEC. 401. TREATMENT OF EMPLOYEES WORKING AT LESS
6	THAN FULL-TIME UNDER PARTICIPATION,
7	VESTING, AND ACCRUAL RULES GOVERNING
8	PENSION PLANS.
9	(a) Participation Rules.—
10	(1) In General.—Section 202(a)(3) of the
11	Employee Retirement Income Security Act of 1974
12	(29 U.S.C. 1052(a)(3)) is amended by adding at the
13	end the following new subparagraph:
14	"(E)(i) For purposes of this paragraph, in the case
15	of any employee who, as of the beginning of the 12-month
16	period referred to in subparagraph (A)—
17	"(I) has customarily completed 500 or more
18	hours of service per year but less than 1,000 hours
19	of service per year, or
20	"(II) is employed in a type of position in which
21	employment customarily constitutes 500 or more
22	hours of service per year but less than 1,000 hours
23	of service per year,
24	completion of 500 hours of service within such period shall
25	be treated as completion of 1 000 hours of service

1 "(ii) For purposes of this subparagraph, the extent 2 to which employment in any type of position customarily 3 constitutes less than 1,000 hours of service per year shall 4 be determined with respect to each pension plan in accord-5 ance with such regulations as the Secretary may prescribe 6 providing for consideration of facts and circumstances pe-7 culiar to the work-force constituting the participants in 8 such plan.". 9 (2)Conforming AMENDMENT.—Section 10 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E)) 11 is amended by striking "section 202(a)(3)(A)" and 12 inserting "subparagraphs (A) and (E) of section 13 202(a)(3)". 14 (b) Vesting Rules.— 15 (1) IN GENERAL.—Section 203(b)(2) of such 16 Act (29 U.S.C. 1053(b)(2)) is amended by adding at 17 the end the following new subparagraph: 18 "(E)(i) For purposes of this paragraph, in the case 19 of any employee who, as of the beginning of the period 20 designated by the plan pursuant to subparagraph (A)— 21 "(I) has customarily completed 500 or more 22 hours of service per year but less than 1,000 hours 23 of service per year, or 24 "(II) is employed in a type of position in which 25 employment customarily constitutes 500 or more

1	hours of service per year but less than 1,000 hours
2	of service per year,
3	completion of 500 hours of service within such period shall
4	be treated as completion of 1,000 hours of service.
5	"(ii) For purposes of this subparagraph, the extent
6	to which employment in any type of position customarily
7	constitutes less than 1,000 hours of service per year shall
8	be determined with respect to each pension plan in accord-
9	ance with such regulations as the Secretary may prescribe
10	providing for consideration of facts and circumstances pe-
11	culiar to the work-force constituting the participants in
12	such plan.".
13	(2) 1-YEAR BREAKS IN SERVICE.—Section
14	203(b)(3) of such Act (29 U.S.C. $1053(b)(3)$ ) is
15	amended by adding at the end the following new
16	subparagraph:
17	"(F)(i) For purposes of this paragraph, in the case
18	of any employee who, as of the beginning of the period
19	designated by the plan pursuant to subparagraph (A)—
20	"(I) has customarily completed 500 or more
21	hours of service per year but less than 1,000 hours
22	of service per year, or
23	"(II) is employed in a type of position in which
24	employment customarily constitutes 500 or more

1 hours of service per year but less than 1,000 hours 2 of service per year, completion of 250 hours of service within such period shall 3 4 be treated as completion of 500 hours of service. 5 "(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily 6 constitutes less than 1,000 hours of service per year shall 8 be determined with respect to each pension plan in accord-9 ance with such regulations as the Secretary may prescribe 10 providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.". 12 13 (c) ACCRUAL RULES.—Section 204(b)(4)(C) of such Act (29 U.S.C. 1054(b)(4)(C)) is amended— 14 (1) by inserting "(i)" after "(C)"; and 15 16 (2) by adding at the end the following new 17 clauses: 18 "(ii) For purposes of this subparagraph, in the case 19 of any employee who, as of the beginning of the period 20 designated by the plan pursuant to clause (i)— 21 "(I) has customarily completed 500 or more 22 hours of service per year but less than 1,000 hours 23 of service per year, or 24 "(II) is employed in a type of position in which

employment customarily constitutes 500 or more

1	hours of service per year but less than 1,000 hours
2	of service per year,

- 3 completion of 500 hours of service within such period shall
- 4 be treated as completion of 1,000 hours of service.
- 5 "(iii) For purposes of clause (ii), the extent to which
- 6 employment in any type of position customarily constitutes
- 7 less than 1,000 hours of service per year shall be deter-
- 8 mined with respect to each pension plan in accordance
- 9 with such regulations as the Secretary may prescribe pro-
- 10 viding for consideration of facts and circumstances pecu-
- 11 liar to the work-force constituting the participants in such
- 12 plan.".
- 13 SEC. 402. TREATMENT OF EMPLOYEES WORKING AT LESS
- 14 THAN FULL-TIME UNDER GROUP HEALTH
- 15 PLANS.
- 16 (a) In General.—Part 2 of subtitle B of title I of
- 17 the Employee Retirement Income Security Act of 1974 is
- 18 amended—
- 19 (1) by redesignating section 211 (29 U.S.C.
- 20 1061) as section 212; and
- 21 (2) by inserting after section 210 (29 U.S.C.
- 22 1060) the following new section:

1	"SEC. 211. TREATMENT OF PART-TIME WORKERS UNDER
2	GROUP HEALTH PLANS.
3	"(a) In General.—A reduction in the employer-pro-
4	vided premium under a group health plan with respect to
5	any employee for any period of coverage solely because the
6	employee's customary employment is less than full-time
7	may be provided under such plan only if the employee is
8	described in subsection (b) and only to the extent per-
9	mitted under subsection (c).
10	"(b) Reductions Applicable to Employees
11	WORKING LESS THAN FULL-TIME.—
12	"(1) In general.—An employee is described in
13	this subsection if such employee, as of the beginning
14	of the period of coverage referred to in subsection
15	(a)—
16	"(A) has customarily completed less than
17	30 hours of service per week, or
18	"(B) is employed in a type of position in
19	which employment customarily constitutes less
20	than 30 hours of service per week.
21	"(2) Regulations.—For purposes of para-
22	graph (1), whether employment in any type of posi-
23	tion customarily constitutes less than 30 hours of
24	service per week shall be determined with respect to
25	each group health plan in accordance with such reg-
26	ulations as the Secretary may prescribe providing

1	for consideration of facts and circumstances peculiar
2	to the work-force constituting the participants in
3	such plan.
4	"(c) Amount of Permissible Reduction.—The
5	employer-provided premium under a group health plan
6	with respect to any employee for any period of coverage,
7	after the reduction permitted under subsection (a), shall
8	not be less than a ratable portion of the employer-provided
9	premium which would be provided under such plan for
10	such period of coverage with respect to an employee who
11	completes 30 hours of service per week.
12	"(d) Definitions.—For purposes of this section—
13	"(1) Group Health Plan.—The term 'group
14	health plan' has the meaning provided such term in
15	section $607(1)$ .
16	"(2) Employer-provided premium.—
17	"(A) In General.—The term 'employer-
18	provided premium' under a plan for any period
19	of coverage means the portion of the applicable
20	premium under the plan for such period of cov-
21	erage which is attributable under the plan to
22	employer contributions.
23	"(B) Applicable premium.—For pur-
24	poses of subparagraph (A), in determining the
25	applicable premium of a group health plan.

1	principles similar to the principles applicable
2	under section 604 shall apply.".
3	(b) Conforming Amendments.—
4	(1) Section 201(1) of such Act (29 U.S.C.
5	1051(1)) is amended by inserting ", except with re-
6	spect to section 211" before the semicolon.
7	(2) The table of contents in section 1 of such
8	Act is amended by striking the item relating to sec-
9	tion 211 and inserting the following new items:
	"211. Treatment of part-time workers under group health plans. "212. Effective date.".
10	SEC. 403. EXPANSION OF DEFINITION OF EMPLOYEE TO IN-
11	CLUDE CERTAIN INDIVIDUALS WHOSE SERV-
12	ICES ARE LEASED OR CONTRACTED FOR.
12 13	ICES ARE LEASED OR CONTRACTED FOR.  Paragraph (6) of section 3 of the Employee Retire-
13	Paragraph (6) of section 3 of the Employee Retire-
13 14	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6))
13 14 15	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—
13 14 15 16	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and
13 14 15 16	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and  (2) by adding at the end the following new sub-
13 14 15 16 17	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and (2) by adding at the end the following new subparagraph:
13 14 15 16 17 18	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and  (2) by adding at the end the following new subparagraph:  "(B) Such term includes, with respect to any em-
13 14 15 16 17 18 19	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and  (2) by adding at the end the following new subparagraph:  "(B) Such term includes, with respect to any employer, any person who is not an employee (within the
13 14 15 16 17 18 19 20	Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—  (1) by inserting "(A)" after "(6)"; and  (2) by adding at the end the following new subparagraph:  "(B) Such term includes, with respect to any employer, any person who is not an employee (within the meaning of subparagraph (A)) of such employer and who

1 such services for such employer (or for such em-2 ployer and related persons (within the meaning of 3 section 144(a)(3) of the Internal Revenue Code of 1986)) for a period of at least 1 year (6 months in 4 5 the case of core health benefits) at the rate of at 6 least 500 hours of service per year, and 7 "(ii) such services are of a type historically per-8 formed, in the business field of the employer, by em-9 ployees (within the meaning of subparagraph (A)).". 10 SEC. 404. EFFECTIVE DATES. 11 (a) In General.—Except as provided in subsection 12 (b), the amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1, 2012. 14 15 (b) Special Rule for Collectively Bargained Plans.—In the case of a plan maintained pursuant to 1 16 17 or more collective bargaining agreements between employee representatives and 1 or more employers ratified 18 19 on or before the date of the enactment of this Act, sub-20 section (a) shall be applied to benefits pursuant to, and 21 individuals covered by, any such agreement by substituting for "January 1, 2012" the date of the commencement of 23 the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2012, or

24

1	(B) the date on which the last of such col-
2	lective bargaining agreements terminates (de-
3	termined without regard to any extension there-
4	of after the date of the enactment of this Act),
5	or
6	(2) January 1, 2014.
7	(c) Plan Amendments.—If any amendment made
8	by this subtitle requires an amendment to any plan, such
9	plan amendment shall not be required to be made before
10	the first plan year beginning on or after January 1, 2012,
11	if—
12	(1) during the period after such amendment
13	made by this Act takes effect and before such first
14	plan year, the plan is operated in accordance with
15	the requirements of such amendment made by this
16	subtitle, and
17	(2) such plan amendment applies retroactively
18	to the period after such amendment made by this
19	subtitle takes effect and such first plan year.
20	A plan shall not be treated as failing to provide definitely
21	determinable benefits or contributions, or to be operated
22	in accordance with the provisions of the plan, merely be-
23	cause it operates in accordance with this subsection.

# Subtitle B—United States Business Telework Act

2	reiework Act
3	SEC. 411. SHORT TITLE.
4	This subtitle may be cited as the "United States
5	Business Telework Act''.
6	SEC. 412. TELEWORK PILOT PROGRAM.
7	(a) Program.—In accordance with this subtitle, the
8	Secretary of Labor shall conduct, in not more than 5
9	States, a pilot program to raise awareness about telework
10	among employers and to encourage such employers to
11	offer telework options to employees.
12	(b) Permissible Activities.—In carrying out the
13	pilot program, the Secretary is encouraged to—
14	(1) produce educational materials and conduct
15	presentations designed to raise awareness of the
16	benefits and the ease of telework;
17	(2) conduct outreach to businesses that are con-
18	sidering offering telework options;
19	(3) acquire telework technologies and equip-
20	ment to be used for demonstration purposes; and
21	(4) ensure that expectant and new mothers who
22	are employed by businesses that participate in the
23	pilot program are given the option to telework dur-
24	ing the 1-year period after the date of birth.

#### SEC. 413. REPORT TO CONGRESS.

- 2 Not later than 2 years after the first date on which
- 3 funds are appropriated to carry out this subtitle, the Sec-
- 4 retary shall transmit to the Congress a report containing
- 5 the results of an evaluation of the pilot program and any
- 6 recommendations as to whether the pilot program, with
- 7 or without modification, should be expanded.

#### 8 SEC. 414. DEFINITION.

- 9 In this subtitle, the term "telework" means the per-
- 10 formance of any portion of work functions by an employee
- 11 outside the normal place of business under circumstances
- 12 which reduce or eliminate the need to commute.

#### 13 SEC. 415. TERMINATION.

- 14 The pilot program shall terminate 2 years after the
- 15 first date on which funds are appropriated to carry out
- 16 this subtitle.

#### 17 SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

- There is authorized to be appropriated \$5,000,000 to
- 19 carry out this subtitle.

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