

111TH CONGRESS
1ST SESSION

S. 1808

To control Federal spending now.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2009

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To control Federal spending now.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Control Spending Now Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—REFORMING THE BUDGET AND SPENDING PROCESS

Subtitle A—Targeting Congressional Earmarks

Sec. 1101. Short title.

Sec. 1102. Reform of consideration of appropriations bills in the Senate.

Subtitle B—Giving the President the Power to Eliminate Wasteful Spending

- Sec. 1201. Short title.
- Sec. 1202. Legislative line-item veto.
- Sec. 1203. Technical and conforming amendments.
- Sec. 1204. Sense of Congress on abuse of proposed repeals and cancellations.

Subtitle C—Restoring Strong Pay-As-You-Go Requirements

- Sec. 1301. Definitions.
- Sec. 1302. PAYGO estimates and PAYGO scorecards.
- Sec. 1303. Annual report and sequestration order.
- Sec. 1304. Calculating a sequestration.
- Sec. 1305. Application of BBEDCA.
- Sec. 1306. Technical corrections.
- Sec. 1307. Conforming amendments.
- Sec. 1308. Exempt programs and activities.
- Sec. 1309. Expiration.

Subtitle D—Reforming the Budget Process

- Sec. 1401. Short title.
- Sec. 1402. Revision of timetable.
- Sec. 1403. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
- Sec. 1404. Amendments to title 31, United States Code.
- Sec. 1405. Two-year appropriations; title and style of appropriations Acts.
- Sec. 1406. Multiyear authorizations.
- Sec. 1407. Government plans on a biennial basis.
- Sec. 1408. Biennial appropriations bills.
- Sec. 1409. Report on two-year fiscal period.
- Sec. 1410. Effective date.

TITLE II—MAKING CONGRESS TIGHTEN ITS BELT

- Sec. 2001. Ending automatic pay raises for Members of Congress.
- Sec. 2002. Cutting spending on congressional offices.
- Sec. 2003. Improving Senate efficiency and transparency.

TITLE III—ENDING CORPORATE WELFARE

- Sec. 3001. Ending the Wall Street bail-out.
- Sec. 3002. Ending subsidies for private student loan companies.
- Sec. 3003. Bringing down prices for prescription drugs by permitting drug reimportation.
- Sec. 3004. Bringing down prices for prescription drugs by extending 340B discounted drug pricing to managed care organizations.
- Sec. 3005. Bringing down prices for prescription drugs by increasing the Medicaid drug rebate.
- Sec. 3006. Ending taxpayer subsidies for exporters.
- Sec. 3007. Reducing taxpayer subsidies for exporters of agriculture commodities.
- Sec. 3008. Making companies pay when they fail FDA quality inspections.

TITLE IV—ENDING TAXPAYER SUBSIDIES FOR BIG AGRIBUSINESSES

- Sec. 4001. Reforming irrigation subsidies.
- Sec. 4002. Reforming crop insurance subsidies.

- Sec. 4003. Reducing direct payments to large landowners.
- Sec. 4004. Cutting farm subsidies for high-income individuals.
- Sec. 4005. Eliminating the cotton storage subsidy.
- Sec. 4006. Ending subsidized grazing fees.

TITLE V—ENDING TAXPAYER SUBSIDIES FOR THE USE OF
PUBLIC RESOURCES AND GOVERNMENT SERVICES

- Sec. 5001. Preventing giveaways of the public spectrum.
- Sec. 5002. Eliminating double subsidies for hardrock mining by repealing percentage depletion allowances.
- Sec. 5003. Ending subsidies for hardrock mining on public lands by imposing mining royalties and claim fees.
- Sec. 5004. Reducing State subsidies for onshore oil, gas, coal, and mineral leases on public lands.
- Sec. 5005. Reducing subsidies for oil, gas, and geothermal energy production on public lands.
- Sec. 5006. Reducing aviation subsidies.
- Sec. 5007. Targeting Medicare prescription drug assistance to those who need it most.

TITLE VI—TARGETING WASTEFUL OR UNNECESSARY
GOVERNMENT SPENDING

- Sec. 6001. Delaying a lunar mission.
- Sec. 6002. Eliminating the V-22 Osprey.
- Sec. 6003. Cutting C-17s.
- Sec. 6004. Ending spending for high-risk satellites.
- Sec. 6005. Reducing cost overruns and delays on major weapons systems.
- Sec. 6006. Reducing spending on unneeded defense spare parts.
- Sec. 6007. Reducing overpayments to defense contractors.
- Sec. 6008. Ending wasteful intelligence spending.
- Sec. 6009. Ending the IRS slush fund.
- Sec. 6010. Rescinding unspent earmarks.
- Sec. 6011. Repealing the rail-line relocation program.
- Sec. 6012. Eliminating Radio/TV marti at the Office of Cuba Broadcasting.
- Sec. 6013. Ending support for the Colombian military.

1 **TITLE I—REFORMING THE**
2 **BUDGET AND SPENDING**
3 **PROCESS**

4 **Subtitle A—Targeting**
5 **Congressional Earmarks**

6 **SEC. 1101. SHORT TITLE.**

7 This subtitle may be cited as the “Fiscal Discipline,
8 Earmark Reform, and Accountability Act”.

1 **SEC. 1102. REFORM OF CONSIDERATION OF APPROPRIA-**
2 **TIONS BILLS IN THE SENATE.**

3 (a) IN GENERAL.—Rule XVI of the Standing Rules
4 of the Senate is amended by adding at the end the fol-
5 lowing:

6 “9.(a) On a point of order made by any Senator:

7 “(1) No new or general legislation nor any un-
8 authorized appropriation may be included in any
9 general appropriation bill.

10 “(2) No amendment may be received to any
11 general appropriation bill the effect of which will be
12 to add an unauthorized appropriation to the bill.

13 “(3) No unauthorized appropriation may be in-
14 cluded in any amendment between the Houses, or
15 any amendment thereto, in relation to a general ap-
16 propriation bill.

17 “(b)(1) If a point of order under subparagraph (a)(1)
18 against a Senate bill or amendment is sustained—

19 “(A) the new or general legislation or unauthor-
20 ized appropriation shall be struck from the bill or
21 amendment; and

22 “(B) any modification of total amounts appro-
23 priated necessary to reflect the deletion of the mat-
24 ter struck from the bill or amendment shall be
25 made.

1 “(2) If a point of order under subparagraph (a)(1)
2 against an Act of the House of Representatives is sus-
3 tained when the Senate is not considering an amendment
4 in the nature of a substitute, an amendment to the House
5 bill is deemed to have been adopted that—

6 “(A) strikes the new or general legislation or
7 unauthorized appropriation from the bill; and

8 “(B) modifies, if necessary, the total amounts
9 appropriated by the bill to reflect the deletion of the
10 matter struck from the bill.

11 “(c) If the point of order against an amendment
12 under subparagraph (a)(2) is sustained, the amendment
13 shall be out of order and may not be considered.

14 “(d)(1) If a point of order under subparagraph (a)(3)
15 against a Senate amendment is sustained—

16 “(A) the unauthorized appropriation shall be
17 struck from the amendment;

18 “(B) any modification of total amounts appro-
19 priated necessary to reflect the deletion of the mat-
20 ter struck from the amendment shall be made; and

21 “(C) after all other points of order under this
22 paragraph have been disposed of, the Senate shall
23 proceed to consider the amendment as so modified.

1 “(2) If a point of order under subparagraph (a)(3)
2 against a House of Representatives amendment is sus-
3 tained—

4 “(A) an amendment to the House amendment
5 is deemed to have been adopted that—

6 “(i) strikes the new or general legislation
7 or unauthorized appropriation from the House
8 amendment; and

9 “(ii) modifies, if necessary, the total
10 amounts appropriated by the bill to reflect the
11 deletion of the matter struck from the House
12 amendment; and

13 “(B) after all other points of order under this
14 paragraph have been disposed of, the Senate shall
15 proceed to consider the question of whether to con-
16 cur with further amendment.

17 “(e) The disposition of a point of order made under
18 any other paragraph of this rule, or under any other
19 Standing Rule of the Senate, that is not sustained, or is
20 waived, does not preclude, or affect, a point of order made
21 under subparagraph (a) with respect to the same matter.

22 “(f) A point of order under subparagraph (a) may
23 be waived only by a motion agreed to by the affirmative
24 vote of three-fifths of the Senators duly chosen and sworn.

25 If an appeal is taken from the ruling of the Presiding Offi-

1 cer with respect to such a point of order, the ruling of
2 the Presiding Officer shall be sustained absent an affirma-
3 tive vote of three-fifths of the Senators duly chosen and
4 sworn.

5 “(g) Notwithstanding any other rule of the Senate,
6 it shall be in order for a Senator to raise a single point
7 of order that several provisions of a general appropriation
8 bill or an amendment between the Houses on a general
9 appropriation bill violate subparagraph (a). The Presiding
10 Officer may sustain the point of order as to some or all
11 of the provisions against which the Senator raised the
12 point of order. If the Presiding Officer so sustains the
13 point of order as to some or all of the provisions against
14 which the Senator raised the point of order, then only
15 those provisions against which the Presiding Officer sus-
16 tains the point of order shall be deemed stricken pursuant
17 to this paragraph. Before the Presiding Officer rules on
18 such a point of order, any Senator may move to waive
19 such a point of order, in accordance with subparagraph
20 (f), as it applies to some or all of the provisions against
21 which the point of order was raised. Such a motion to
22 waive is amendable in accordance with the rules and prece-
23 dents of the Senate. After the Presiding Officer rules on
24 such a point of order, any Senator may appeal the ruling
25 of the Presiding Officer on such a point of order as it

1 applies to some or all of the provisions on which the Pre-
2 siding Officer ruled.

3 “(h) For purposes of this paragraph:

4 “(1) The term ‘new or general legislation’ has
5 the meaning given that term when it is used in para-
6 graph 2 of this rule.

7 “(2) The term ‘new matter’ means matter not
8 committed to conference by either House of Con-
9 gress.

10 “(3)(A) The term ‘unauthorized appropriation’
11 means a ‘congressionally directed spending item’ as
12 defined in rule XLIV—

13 “(i) that is not specifically authorized by
14 law or Treaty stipulation (unless the appropria-
15 tion has been specifically authorized by an Act
16 or resolution previously passed by the Senate
17 during the same session or proposed in pursu-
18 ance of an estimate submitted in accordance
19 with law); or

20 “(ii) the amount of which exceeds the
21 amount specifically authorized by law or Treaty
22 stipulation (or specifically authorized by an Act
23 or resolution previously passed by the Senate
24 during the same session or proposed in pursu-

1 ance of an estimate submitted in accordance
2 with law) to be appropriated.

3 “(B) An appropriation is not specifically au-
4 thorized if it is restricted or directed to, or author-
5 ized to be obligated or expended for the benefit of,
6 an identifiable person, program, project, entity, or
7 jurisdiction by earmarking or other specification,
8 whether by name or description, in a manner that is
9 so restricted, directed, or authorized that it applies
10 only to a single identifiable person, program, project,
11 entity, or jurisdiction, unless the identifiable person,
12 program, project, entity, or jurisdiction to which the
13 restriction, direction, or authorization applies is de-
14 scribed or otherwise clearly identified in a law or
15 Treaty stipulation (or an Act or resolution pre-
16 viously passed by the Senate during the same ses-
17 sion or in the estimate submitted in accordance with
18 law) that specifically provides for the restriction, di-
19 rection, or authorization of appropriation for such
20 person, program, project, entity, or jurisdiction.

21 “10. (a) On a point of order made by any Senator,
22 no new or general legislation, nor any unauthorized appro-
23 priation, new matter, or nongermane matter may be in-
24 cluded in any conference report on a general appropriation
25 bill.

1 “(b) If the point of order against a conference report
2 under subparagraph (a) is sustained—

3 “(1) the new or general legislation, unauthor-
4 ized appropriation, new matter, or nongermane mat-
5 ter in such conference report shall be deemed to
6 have been struck;

7 “(2) any modification of total amounts appro-
8 priated necessary to reflect the deletion of the mat-
9 ter struck shall be deemed to have been made;

10 “(3) when all other points of order under this
11 paragraph have been disposed of—

12 “(A) the Senate shall proceed to consider
13 the question of whether the Senate should re-
14 ceede from its amendment to the House bill, or
15 its disagreement to the amendment of the
16 House, and concur with a further amendment,
17 which further amendment shall consist of only
18 that portion of the conference report not
19 deemed to have been struck (together with any
20 modification of total amounts appropriated);

21 “(B) the question shall be debatable; and

22 “(C) no further amendment shall be in
23 order; and

24 “(4) if the Senate agrees to the amendment,
25 then the bill and the Senate amendment thereto

1 shall be returned to the House for its concurrence
2 in the amendment of the Senate.

3 “(c) The disposition of a point of order made under
4 any other paragraph of this rule, or under any other
5 Standing Rule of the Senate, that is not sustained, or is
6 waived, does not preclude, or affect, a point of order made
7 under subparagraph (a) with respect to the same matter.

8 “(d) A point of order under subparagraph (a) may
9 be waived only by a motion agreed to by the affirmative
10 vote of three-fifths of the Senators duly chosen and sworn.
11 If an appeal is taken from the ruling of the Presiding Offi-
12 cer with respect to such a point of order, the ruling of
13 the Presiding Officer shall be sustained absent an affirma-
14 tive vote of three-fifths of the Senators duly chosen and
15 sworn.

16 “(e) Notwithstanding any other rule of the Senate,
17 it shall be in order for a Senator to raise a single point
18 of order that several provisions of a conference report on
19 a general appropriation bill violate subparagraph (a). The
20 Presiding Officer may sustain the point of order as to
21 some or all of the provisions against which the Senator
22 raised the point of order. If the Presiding Officer so sus-
23 tains the point of order as to some or all of the provisions
24 against which the Senator raised the point of order, then
25 only those provisions against which the Presiding Officer

1 sustains the point of order shall be deemed stricken pursu-
2 ant to this paragraph. Before the Presiding Officer rules
3 on such a point of order, any Senator may move to waive
4 such a point of order, in accordance with subparagraph
5 (d), as it applies to some or all of the provisions against
6 which the point of order was raised. Such a motion to
7 waive is amendable in accordance with the rules and prece-
8 dents of the Senate. After the Presiding Officer rules on
9 such a point of order, any Senator may appeal the ruling
10 of the Presiding Officer on such a point of order as it
11 applies to some or all of the provisions on which the Pre-
12 siding Officer ruled.

13 “(f) For purposes of this paragraph:

14 “(1) The terms ‘new or general legislation’,
15 ‘new matter’, and ‘unauthorized appropriation’ have
16 the same meaning as in paragraph 9.

17 “(2) The term ‘nongermane matter’ has the
18 same meaning as in rule XXII and under the prece-
19 dents attendant thereto, as of the beginning of the
20 110th Congress.”.

21 (b) REQUIRING CONFERENCE REPORTS TO BE
22 SEARCHABLE ONLINE.—Paragraph 3(a)(2) of rule XLIV
23 of the Standing Rules of the Senate is amended by insert-
24 ing “in an searchable format” after “available”.

1 **Subtitle B—Giving the President**
2 **the Power to Eliminate Wasteful**
3 **Spending**

4 **SEC. 1201. SHORT TITLE.**

5 This subtitle may be cited as the “Congressional Ac-
6 countability and Line-Item Veto Act of 2009”.

7 **SEC. 1202. LEGISLATIVE LINE-ITEM VETO.**

8 Title X of the Congressional Budget and Impound-
9 ment Control Act of 1974 (2 U.S.C. 621 et seq.) is amend-
10 ed by striking all of part B (except for sections 1016 and
11 1013, which are redesignated as sections 1019 and 1020,
12 respectively) and part C and inserting the following:

13 “PART B—LEGISLATIVE LINE-ITEM VETO

14 “LINE-ITEM VETO AUTHORITY

15 “SEC. 1011. (a) PROPOSED CANCELLATIONS.—With-
16 in 30 calendar days after the enactment of any bill or joint
17 resolution containing any congressional earmark or pro-
18 viding any limited tariff benefit or targeted tax benefit,
19 the President may propose, in the manner provided in sub-
20 section (b), the repeal of the congressional earmark or the
21 cancellation of any limited tariff benefit or targeted tax
22 benefit. If the 30 calendar-day period expires during a pe-
23 riod where either House of Congress stands adjourned sine
24 die at the end of Congress or for a period greater than
25 30 calendar days, the President may propose a cancella-

1 tion under this section and transmit a special message
2 under subsection (b) on the first calendar day of session
3 following such a period of adjournment.

4 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

5 “(1) SPECIAL MESSAGE.—

6 “(A) IN GENERAL.—The President may
7 transmit to the Congress a special message pro-
8 posing to repeal any congressional earmarks or
9 to cancel any limited tariff benefits or targeted
10 tax benefits.

11 “(B) CONTENTS OF SPECIAL MESSAGE.—
12 Each special message shall specify, with respect
13 to the congressional earmarks, limited tariff
14 benefits, or targeted tax benefits to be repealed
15 or canceled—

16 “(i) the congressional earmark that
17 the President proposes to repeal or the
18 limited tariff benefit or the targeted tax
19 benefit that the President proposes be can-
20 celed;

21 “(ii) the specific project or govern-
22 mental functions involved;

23 “(iii) the reasons why such congres-
24 sional earmark should be repealed or such

1 limited tariff benefit or targeted tax ben-
2 efit should be canceled;

3 “(iv) to the maximum extent prac-
4 ticable, the estimated fiscal, economic, and
5 budgetary effect (including the effect on
6 outlays and receipts in each fiscal year) of
7 the proposed repeal or cancellation;

8 “(v) to the maximum extent prac-
9 ticable, all facts, circumstances, and con-
10 siderations relating to or bearing upon the
11 proposed repeal or cancellation and the de-
12 cision to propose the repeal or cancellation,
13 and the estimated effect of the proposed
14 repeal or cancellation upon the objects,
15 purposes, or programs for which the con-
16 gressional earmark, limited tariff benefit,
17 or the targeted tax benefit is provided;

18 “(vi) a numbered list of repeals and
19 cancellations to be included in an approval
20 bill that, if enacted, would repeal congres-
21 sional earmarks and cancel limited tariff
22 benefits or targeted tax benefits proposed
23 in that special message; and

24 “(vii) if the special message is trans-
25 mitted subsequent to or at the same time

1 as another special message, a detailed ex-
2 planation why the proposed repeals or can-
3 cellations are not substantially similar to
4 any other proposed repeal or cancellation
5 in such other message.

6 “(C) DUPLICATIVE PROPOSALS PROHIB-
7 ITED.—The President may not propose to re-
8 peal or cancel the same or substantially similar
9 congressional earmark, limited tariff benefit, or
10 targeted tax benefit more than one time under
11 this Act.

12 “(D) MAXIMUM NUMBER OF SPECIAL MES-
13 SAGES.—The President may not transmit to the
14 Congress more than one special message under
15 this subsection related to any bill or joint reso-
16 lution described in subsection (a), but may
17 transmit not more than 2 special messages for
18 any omnibus budget reconciliation or appropria-
19 tion measure.

20 “(2) ENACTMENT OF APPROVAL BILL.—

21 “(A) DEFICIT REDUCTION.—Congressional
22 earmarks, limited tariff benefits, or targeted tax
23 benefits which are repealed or canceled pursu-
24 ant to enactment of a bill as provided under

1 this section shall be dedicated only to reducing
2 the deficit or increasing the surplus.

3 “(B) ADJUSTMENT OF LEVELS IN THE
4 CONCURRENT RESOLUTION ON THE BUDGET.—
5 Not later than 5 days after the date of enact-
6 ment of an approval bill as provided under this
7 section, the chairs of the Committees on the
8 Budget of the Senate and the House of Rep-
9 resentatives shall revise allocations and aggre-
10 gates and other appropriate levels under the ap-
11 propriate concurrent resolution on the budget to
12 reflect the repeal or cancellation, and the appli-
13 cable committees shall report revised suballoca-
14 tions pursuant to section 302(b), as appro-
15 priate.

16 “(C) ADJUSTMENTS TO STATUTORY LIM-
17 ITS.—After enactment of an approval bill as
18 provided under this section, the Office of Man-
19 agement and Budget shall revise applicable lim-
20 its under the Balanced Budget and Emergency
21 Deficit Control Act of 1985, as appropriate.

22 “(D) TRUST FUNDS AND SPECIAL
23 FUNDS.—Notwithstanding subparagraph (A),
24 nothing in this part shall be construed to re-
25 quire or allow the deposit of amounts derived

1 from a trust fund or special fund which are
2 canceled pursuant to enactment of a bill as pro-
3 vided under this section to any other fund.

4 “PROCEDURES FOR EXPEDITED CONSIDERATION

5 “SEC. 1012. (a) EXPEDITED CONSIDERATION.—

6 “(1) IN GENERAL.—The majority leader or mi-
7 nority leader of each House or his designee shall (by
8 request) introduce an approval bill as defined in sec-
9 tion 1017 not later than the third day of session of
10 that House after the date of receipt of a special mes-
11 sage transmitted to the Congress under section
12 1011(b). If the bill is not introduced as provided in
13 the preceding sentence in either House, then, on the
14 fourth day of session of that House after the date
15 of receipt of the special message, any Member of
16 that House may introduce the bill.

17 “(2) CONSIDERATION IN THE HOUSE OF REP-
18 RESENTATIVES.—

19 “(A) REFERRAL AND REPORTING.—Any
20 committee of the House of Representatives to
21 which an approval bill is referred shall report it
22 to the House without amendment not later than
23 the seventh legislative day after the date of its
24 introduction. If a committee fails to report the
25 bill within that period or the House has adopt-
26 ed a concurrent resolution providing for ad-

1 journalment sine die at the end of a Congress,
2 such committee shall be automatically dis-
3 charged from further consideration of the bill
4 and it shall be placed on the appropriate cal-
5 endar.

6 “(B) PROCEEDING TO CONSIDERATION.—
7 After an approval bill is reported by or dis-
8 charged from committee or the House has
9 adopted a concurrent resolution providing for
10 adjournment sine die at the end of a Congress,
11 it shall be in order to move to proceed to con-
12 sider the approval bill in the House. Such a mo-
13 tion shall be in order only at a time designated
14 by the Speaker in the legislative schedule within
15 two legislative days after the day on which the
16 proponent announces his intention to offer the
17 motion. Such a motion shall not be in order
18 after the House has disposed of a motion to
19 proceed with respect to that special message.
20 The previous question shall be considered as or-
21 dered on the motion to its adoption without in-
22 tervening motion. A motion to reconsider the
23 vote by which the motion is disposed of shall
24 not be in order.

1 “(C) CONSIDERATION.—The approval bill
2 shall be considered as read. All points of order
3 against an approval bill and against its consid-
4 eration are waived. The previous question shall
5 be considered as ordered on an approval bill to
6 its passage without intervening motion except
7 five hours of debate equally divided and con-
8 trolled by the proponent and an opponent and
9 one motion to limit debate on the bill. A motion
10 to reconsider the vote on passage of the bill
11 shall not be in order.

12 “(D) SENATE BILL.—An approval bill re-
13 ceived from the Senate shall not be referred to
14 committee.

15 “(3) CONSIDERATION IN THE SENATE.—

16 “(A) REFERRAL AND REPORTING.—Any
17 committee of the Senate to which an approval
18 bill is referred shall report it to the Senate
19 without amendment not later than the seventh
20 legislative day after the date of its introduction.
21 If a committee fails to report the bill within
22 that period or the Senate has adopted a concur-
23 rent resolution providing for adjournment sine
24 die at the end of a Congress, such committee
25 shall be automatically discharged from further

1 consideration of the bill and it shall be placed
2 on the appropriate calendar.

3 “(B) MOTION TO PROCEED TO CONSIDER-
4 ATION.—After an approval bill is reported by or
5 discharged from committee or the Senate has
6 adopted a concurrent resolution providing for
7 adjournment sine die at the end of a Congress,
8 it shall be in order to move to proceed to con-
9 sider the approval bill in the Senate. A motion
10 to proceed to the consideration of a bill under
11 this subsection in the Senate shall not be debat-
12 able. It shall not be in order to move to recon-
13 sider the vote by which the motion to proceed
14 is agreed to or disagreed to.

15 “(C) LIMITS ON DEBATE.—Debate in the
16 Senate on a bill under this subsection, and all
17 debatable motions and appeals in connection
18 therewith (including debate pursuant to sub-
19 paragraph (D)), shall not exceed 10 hours,
20 equally divided and controlled in the usual
21 form.

22 “(D) APPEALS.—Debate in the Senate on
23 any debatable motion or appeal in connection
24 with a bill under this subsection shall be limited

1 to not more than 1 hour, to be equally divided
2 and controlled in the usual form.

3 “(E) MOTION TO LIMIT DEBATE.—A mo-
4 tion in the Senate to further limit debate on a
5 bill under this subsection is not debatable.

6 “(F) MOTION TO RECOMMIT.—A motion to
7 recommit a bill under this subsection is not in
8 order.

9 “(G) CONSIDERATION OF THE HOUSE
10 BILL.—

11 “(i) IN GENERAL.—If the Senate has
12 received the House companion bill to the
13 bill introduced in the Senate prior to a
14 vote under subparagraph (C), then the
15 Senate may consider, and the vote under
16 subparagraph (C) may occur on, the House
17 companion bill.

18 “(ii) PROCEDURE AFTER VOTE ON
19 SENATE BILL.—If the Senate votes, pursu-
20 ant to subparagraph (C), on the bill intro-
21 duced in the Senate, then immediately fol-
22 lowing that vote, or upon receipt of the
23 House companion bill, the House bill shall
24 be deemed to be considered, read the third
25 time, and the vote on passage of the Sen-

1 ate bill shall be considered to be the vote
2 on the bill received from the House.

3 “(b) AMENDMENTS PROHIBITED.—No amendment
4 to, or motion to strike a provision from, a bill considered
5 under this section shall be in order in either the Senate
6 or the House of Representatives.

7 “PRESIDENTIAL DEFERRAL AUTHORITY

8 “SEC. 1013. (a) TEMPORARY PRESIDENTIAL AU-
9 THORITY TO WITHHOLD CONGRESSIONAL EARMARKS.—

10 “(1) IN GENERAL.—At the same time as the
11 President transmits to the Congress a special mes-
12 sage pursuant to section 1011(b), the President may
13 direct that any congressional earmark to be repealed
14 in that special message shall not be made available
15 for obligation for a period of 45 calendar days of
16 continuous session of the Congress after the date on
17 which the President transmits the special message to
18 the Congress.

19 “(2) EARLY AVAILABILITY.—The President
20 shall make any congressional earmark deferred pur-
21 suant to paragraph (1) available at a time earlier
22 than the time specified by the President if the Presi-
23 dent determines that continuation of the deferral
24 would not further the purposes of this Act.

25 “(b) TEMPORARY PRESIDENTIAL AUTHORITY TO
26 SUSPEND A LIMITED TARIFF BENEFIT.—

1 “(1) IN GENERAL.—At the same time as the
2 President transmits to the Congress a special mes-
3 sage pursuant to section 1011(b), the President may
4 suspend the implementation of any limited tariff
5 benefit proposed to be canceled in that special mes-
6 sage for a period of 45 calendar days of continuous
7 session of the Congress after the date on which the
8 President transmits the special message to the Con-
9 gress.

10 “(2) EARLY AVAILABILITY.—The President
11 shall terminate the suspension of any limited tariff
12 benefit at a time earlier than the time specified by
13 the President if the President determines that con-
14 tinuation of the suspension would not further the
15 purposes of this Act.

16 “(c) TEMPORARY PRESIDENTIAL AUTHORITY TO
17 SUSPEND A TARGETED TAX BENEFIT.—

18 “(1) IN GENERAL.—At the same time as the
19 President transmits to the Congress a special mes-
20 sage pursuant to section 1011(b), the President may
21 suspend the implementation of any targeted tax ben-
22 efit proposed to be repealed in that special message
23 for a period of 45 calendar days of continuous ses-
24 sion of the Congress after the date on which the

1 President transmits the special message to the Con-
2 gress.

3 “(2) EARLY AVAILABILITY.—The President
4 shall terminate the suspension of any targeted tax
5 benefit at a time earlier than the time specified by
6 the President if the President determines that con-
7 tinuation of the suspension would not further the
8 purposes of this Act.

9 “IDENTIFICATION OF TARGETED TAX BENEFITS

10 “SEC. 1014. (a) STATEMENT.—The chairman of the
11 Committee on Ways and Means of the House of Rep-
12 resentatives and the chairman of the Committee on Fi-
13 nance of the Senate acting jointly (hereafter in this sub-
14 section referred to as the ‘chairmen’) shall review any rev-
15 enue or reconciliation bill or joint resolution which in-
16 cludes any amendment to the Internal Revenue Code of
17 1986 that is being prepared for filing by a committee of
18 conference of the two Houses, and shall identify whether
19 such bill or joint resolution contains any targeted tax ben-
20 efits. The chairmen shall provide to the committee of con-
21 ference a statement identifying any such targeted tax ben-
22 efits or declaring that the bill or joint resolution does not
23 contain any targeted tax benefits. Any such statement
24 shall be made available to any Member of Congress by
25 the chairmen immediately upon request.

26 “(b) STATEMENT INCLUDED IN LEGISLATION.—

1 “(1) IN GENERAL.—Notwithstanding any other
 2 rule of the House of Representatives or any rule or
 3 precedent of the Senate, any revenue or reconcili-
 4 ation bill or joint resolution which includes any
 5 amendment to the Internal Revenue Code of 1986
 6 reported by a committee of conference of the two
 7 Houses may include, as a separate section of such
 8 bill or joint resolution, the information contained in
 9 the statement of the chairmen, but only in the man-
 10 ner set forth in paragraph (2).

11 “(2) APPLICABILITY.—The separate section
 12 permitted under subparagraph (A) shall read as fol-
 13 lows: ‘Section 1021 of the Congressional Budget and
 14 Impoundment Control Act of 1974 shall
 15 _____ apply to _____.’, with
 16 the blank spaces being filled in with—

17 “(A) in any case in which the chairmen
 18 identify targeted tax benefits in the statement
 19 required under subsection (a), the word ‘only’
 20 in the first blank space and a list of all of the
 21 specific provisions of the bill or joint resolution
 22 in the second blank space; or

23 “(B) in any case in which the chairmen de-
 24 clare that there are no targeted tax benefits in
 25 the statement required under subsection (a),

1 the word ‘not’ in the first blank space and the
2 phrase ‘any provision of this Act’ in the second
3 blank space.

4 “(c) IDENTIFICATION IN REVENUE ESTIMATE.—

5 With respect to any revenue or reconciliation bill or joint
6 resolution with respect to which the chairmen provide a
7 statement under subsection (a), the Joint Committee on
8 Taxation shall—

9 “(1) in the case of a statement described in
10 subsection (b)(2)(A), list the targeted tax benefits in
11 any revenue estimate prepared by the Joint Com-
12 mittee on Taxation for any conference report which
13 accompanies such bill or joint resolution, or

14 “(2) in the case of a statement described in 13
15 subsection (b)(2)(B), indicate in such revenue esti-
16 mate that no provision in such bill or joint resolution
17 has been identified as a targeted tax benefit.

18 “(d) PRESIDENT’S AUTHORITY.—If any revenue or
19 reconciliation bill or joint resolution is signed into law—

20 “(1) with a separate section described in sub-
21 section (b)(2), then the President may use the au-
22 thority granted in this section only with respect to
23 any targeted tax benefit in that law, if any, identi-
24 fied in such separate section; or

1 “(2) without a separate section described in
2 subsection (b)(2), then the President may use the
3 authority granted in this section with respect to any
4 targeted tax benefit in that law.

5 “TREATMENT OF CANCELLATIONS

6 “SEC. 1015. The repeal of any congressional earmark
7 or cancellation of any limited tariff benefit or targeted tax
8 benefit shall take effect only upon enactment of the appli-
9 cable approval bill. If an approval bill is not enacted into
10 law before the end of the applicable period under section
11 1013, then all proposed repeals and cancellations con-
12 tained in that bill shall be null and void and any such
13 congressional earmark, limited tariff benefit, or targeted
14 tax benefit shall be effective as of the original date pro-
15 vided in the law to which the proposed repeals or cancella-
16 tions applied.

17 “REPORTS BY COMPTROLLER GENERAL

18 “SEC. 1016. With respect to each special message
19 under this part, the Comptroller General shall issue to the
20 Congress a report determining whether any congressional
21 earmark is not repealed or limited tariff benefit or tar-
22 geted tax benefit continues to be suspended after the de-
23 ferral authority set forth in section 1013 of the President
24 has expired.

25 “DEFINITIONS

26 “SEC. 1017. As used in this part:

1 “(1) APPROPRIATION LAW.—The term ‘appro-
2 piation law’ means an Act referred to in section
3 105 of title 1, United States Code, including any
4 general or special appropriation Act, or any Act
5 making supplemental, deficiency, or continuing ap-
6 propriations, that has been signed into law pursuant
7 to Article I, section 7, of the Constitution of the
8 United States.

9 “(2) APPROVAL BILL.—The term ‘approval bill’
10 means a bill or joint resolution which only approves
11 proposed repeals of congressional earmarks or can-
12 cellations of limited tariff benefits or targeted tax
13 benefits in a special message transmitted by the
14 President under this part and—

15 “(A) the title of which is as follows: ‘A bill
16 approving the proposed repeals and cancella-
17 tions transmitted by the President on _____’,
18 the blank space being filled in with the date of
19 transmission of the relevant special message
20 and the public law number to which the mes-
21 sage relates;

22 “(B) which does not have a preamble;

23 “(C) which provides only the following
24 after the enacting clause: ‘That the Congress
25 approves of proposed repeals and cancellations

1 _____’, the blank space being filled in with a
2 list of the repeals and cancellations contained in
3 the President’s special message, ‘as transmitted
4 by the President in a special message on
5 _____’, the blank space being filled in with
6 the appropriate date, ‘regarding _____.’, the
7 blank space being filled in with the public law
8 number to which the special message relates;

9 “(D) which only includes proposed repeals
10 and cancellations that are estimated by CBO to
11 meet the definition of congressional earmark or
12 limited tariff benefits, or that are identified as
13 targeted tax benefits pursuant to section 1014;
14 and

15 “(E) if no CBO estimate is available, then
16 the entire list of legislative provisions proposed
17 by the President is inserted in the second blank
18 space in subparagraph (C).

19 “(3) CALENDAR DAY.—The term ‘calendar day’
20 means a standard 24-hour period beginning at mid-
21 night.

22 “(4) CANCEL OR CANCELLATION.—The terms
23 ‘cancel’ or ‘cancellation’ means to prevent—

24 “(A) a limited tariff benefit from having
25 legal force or effect, and to make any necessary,

1 conforming statutory change to ensure that
2 such limited tariff benefit is not implemented;
3 or

4 “(B) a targeted tax benefit from having
5 legal force or effect, and to make any necessary,
6 conforming statutory change to ensure that
7 such targeted tax benefit is not implemented
8 and that any budgetary resources are appro-
9 priately canceled.

10 “(5) CBO.—The term ‘CBO’ means the Direc-
11 tor of the Congressional Budget Office.

12 “(6) CONGRESSIONAL EARMARK.—The term
13 ‘congressional earmark’ means a provision or report
14 language included primarily at the request of a
15 Member, Delegate, Resident Commissioner, or Sen-
16 ator providing, authorizing or recommending a spe-
17 cific amount of discretionary budget authority, credit
18 authority, or other spending authority for a contract,
19 loan, loan guarantee, grant, loan authority, or other
20 expenditure with or to an entity, or targeted to a
21 specific State, locality or Congressional district,
22 other than through a statutory or administrative for-
23 mula-driven or competitive award process.

1 “(7) ENTITY.—As used in paragraph (6), the
2 term ‘entity’ includes a private business, State, terri-
3 tory or locality, or Federal entity.

4 “(8) LIMITED TARIFF BENEFIT.—The term
5 ‘limited tariff benefit’ means any provision of law
6 that modifies the Harmonized Tariff Schedule of the
7 United States in a manner that benefits 10 or fewer
8 entities (as defined in paragraph (12)(B)).

9 “(9) OMB.—The term ‘OMB’ means the Direc-
10 tor of the Office of Management and Budget.

11 “(10) OMNIBUS RECONCILIATION OR APPRO-
12 PRIATION MEASURE.—The term ‘omnibus reconcili-
13 ation or appropriation measure’ means—

14 “(A) in the case of a reconciliation bill, any
15 such bill that is reported to its House by the
16 Committee on the Budget; or

17 “(B) in the case of an appropriation meas-
18 ure, any such measure that provides appropria-
19 tions for programs, projects, or activities falling
20 within 2 or more section 302(b) suballocations.

21 “(11) TARGETED TAX BENEFIT.—The term
22 ‘targeted tax benefit’ means—

23 “(A) any revenue provision that—

24 “(i) provides a Federal tax deduction,
25 credit, exclusion, or preference to a par-

1 “(b) Upon the receipt of a special message under sec-
2 tion 1011 proposing to repeal any congressional earmark,
3 the Director of the Congressional Budget Office shall pre-
4 pare an estimate of the savings in budget authority or out-
5 lays resulting from such proposed repeal relative to the
6 most recent levels calculated consistent with the method-
7 ology used to calculate a baseline under section 257 of
8 the Balanced Budget and Emergency Deficit Control Act
9 of 1985 and included with a budget submission under sec-
10 tion 1105(a) of title 31, United States Code, and transmit
11 such estimate to the chairmen of the Committees on the
12 Budget of the House of Representatives and Senate.”.

13 (c) CLERICAL AMENDMENTS.—(1) Section 1(a) of
14 the Congressional Budget and Impoundment Control Act
15 of 1974 is amended by striking the last sentence.

16 (2) Section 1022(c) of such Act (as redesignated) is
17 amended is amended by striking “rescinded or that is to
18 be reserved” and insert “canceled” and by striking
19 “1012” and inserting “1011”.

20 (3) TABLE OF CONTENTS.—The table of contents set
21 forth in section 1(b) of the Congressional Budget and Im-
22 poundment Control Act of 1974 is amended by deleting
23 the contents for parts B and C of title X and inserting
24 the following:

“PART B—LEGISLATIVE LINE-ITEM VETO

“Sec. 1011. Line-item veto authority.

“Sec. 1012. Procedures for expedited consideration.

“Sec. 1013. Presidential deferral authority.

“Sec. 1014. Identification of targeted tax benefits.

“Sec. 1015. Treatment of cancellations.

“Sec. 1016. Reports by Comptroller General.

“Sec. 1017. Definitions.

“Sec. 1018. Expiration.

“Sec. 1019. Suits by Comptroller General.

“Sec. 1020. Proposed Deferrals of budget authority.”.

1 (d) **EFFECTIVE DATE.**—The amendments made by
 2 this subtitle shall take effect on the date of its enactment
 3 and apply only to any congressional earmark, limited tariff
 4 benefit, or targeted tax benefit provided in an Act enacted
 5 on or after the date of enactment of this Act.

6 **SEC. 1204. SENSE OF CONGRESS ON ABUSE OF PROPOSED**
 7 **REPEALS AND CANCELLATIONS.**

8 It is the sense of Congress no President or any execu-
 9 tive branch official should condition the inclusion or exclu-
 10 sion or threaten to condition the inclusion or exclusion of
 11 any proposed repeal or cancellation in any special message
 12 under this section upon any vote cast or to be cast

13 **Subtitle C—Restoring Strong Pay-**
 14 **As-You-Go Requirements**

15 **SEC. 1301. DEFINITIONS.**

16 As used in this subtitle—

17 (1) The term “BBEDCA” means the Balanced
 18 Budget and Emergency Deficit Control Act of 1985.

19 (2) The definitions set forth in section 3 of the
 20 Congressional Budget and Impoundment Control
 21 Act of 1974 and in section 250 of BBEDCA shall

1 apply to this subtitle, except to the extent that they
2 are specifically modified as follows:

3 (A) The term “outyear” means a fiscal
4 year that occurs one or more years after the
5 budget year.

6 (B) In section 250(c)(8)(C), the reference
7 to the food stamp program shall be deemed to
8 be a reference to the Supplemental Nutrition
9 Assistance Program.

10 (3)(A) The term “budgetary effects” means the
11 amounts by which PAYGO legislation changes direct
12 spending or revenues relative to the baseline and
13 shall be determined on the basis of estimates in-
14 cluded by reference in the PAYGO Act or prepared
15 under section 4(d)(3), as applicable. Budgetary ef-
16 fects that increase direct spending or decrease reve-
17 nues are termed “costs” and budgetary effects that
18 increase revenues or decrease direct spending are
19 termed “savings”.

20 (B) For purposes of these definitions, off-budg-
21 et effects shall be counted as budgetary effects un-
22 less such changes flow directly from amendments to
23 title II of the Social Security Act and related provi-
24 sions of the Internal Revenue Code of 1986 and debt

1 service effects shall not be counted as budgetary ef-
2 fects.

3 (C) Solely for purposes of recording entries on
4 a PAYGO scorecard, provisions in appropriations
5 Acts are also considered to be budgetary effects for
6 purposes of this subtitle if such provisions make out-
7 year modifications to substantive law, except that
8 provisions for which the outlay effects net to zero
9 over a period consisting of the current year, the
10 budget year, and the 4 subsequent years shall not be
11 considered budgetary effects. For purposes of this
12 paragraph, the term, “modifications to substantive
13 law” refers to changes to or restrictions on entitle-
14 ment law or other mandatory spending contained in
15 appropriations Acts, notwithstanding section
16 250(c)(8) of BBEDCA. Provisions in appropriations
17 Acts that are neither outyear modifications to sub-
18 stantive law nor changes in revenues have no budg-
19 etary effects for purposes of this subtitle.

20 (D) If a provision is designated as an emer-
21 gency requirement under this subtitle and is also
22 designated as an emergency requirement under the
23 applicable rules of the House of Representatives,
24 CBO shall not include the cost of such a provision

1 in its estimate of the PAYGO legislation’s budgetary
2 effects.

3 (4) The term “debit” refers to the net total
4 amount, when positive, by which costs recorded on
5 the PAYGO scorecards for a fiscal year exceed sav-
6 ings recorded on those scorecards for that year.

7 (5) The term “entitlement law” refers to a sec-
8 tion of law which provides entitlement authority.

9 (6) The term “PAYGO legislation” or a
10 “PAYGO Act” refers to a bill or joint resolution
11 that affects direct spending or revenue relative to
12 the baseline. The budgetary effects of changes in
13 revenues and outyear modifications to substantive
14 law included in appropriation Acts as defined in
15 paragraph (4) shall be treated as if they were con-
16 tained in PAYGO legislation.

17 (7) The term “timing shift” refers to a delay of
18 the date on which direct spending would otherwise
19 occur from the ninth outyear to the tenth outyear or
20 an acceleration of the date on which revenues would
21 otherwise occur from the tenth outyear to the ninth
22 outyear.

23 **SEC. 1302. PAYGO ESTIMATES AND PAYGO SCORECARDS.**

24 (a) PAYGO ESTIMATES.—(1) A PAYGO Act shall
25 include by reference an estimate of its budgetary effects

1 determined under section 308(a)(3) of the Congressional
2 Budget Act of 1974, if timely submitted for printing in
3 the Congressional Record by the chairs of the Committees
4 on the Budget of the House of Representatives and the
5 Senate, as applicable, before the vote on the PAYGO legis-
6 lation. The Clerk of the House or the Secretary of the
7 Senate, as applicable, shall also incorporate by reference
8 such estimate printed in the relevant portion of the Con-
9 gressional Record under section 308(a)(3) of the Congres-
10 sional Budget Act of 1974 into the enrollment of a
11 PAYGO Act. Budgetary effects that are not so included
12 shall be determined under section 1304(d)(3).

13 (2)(A) Section 308(a) of the Congressional Budget
14 Act of 1974 is amended by adding at the end the following
15 new paragraph:

16 “(3) CBO PAYGO ESTIMATES.—Before a vote in
17 either House on a PAYGO Act that, if determined
18 in the affirmative, would clear such Act for enroll-
19 ment, the chairs of the Committees on the Budget
20 of the House and Senate, as applicable, shall request
21 from the Director of the Congressional Budget Of-
22 fice an estimate of the budgetary effects of such Act
23 under the Control Spending Now Act. If such an es-
24 timate is timely provided, the chairs of the Commit-
25 tees on the Budget of the House of Representatives

1 and the Senate shall post such estimate on their re-
2 spective committee websites and cause it to be print-
3 ed in the Congressional Record under the heading
4 ‘PAYGO ESTIMATE’. For purposes of this section,
5 the Director of the Congressional Budget Office
6 shall not count timing shifts in his estimates of the
7 budgetary effects of PAYGO legislation (as defined
8 in section 1301 of the Control Spending Now Act).”.

9 (B) The side heading of section 308(a) of the Con-
10 gressional Budget Act of 1974 is amended by striking
11 “REPORTS ON”.

12 (b) Section 308 of the Congressional Budget Act of
13 1974 is amended by adding at the end the following new
14 subsection:

15 “(d) SCOREKEEPING GUIDELINES.—The Director of
16 the Congressional Budget Office shall provide estimates
17 under this section in accordance with the scorekeeping
18 guidelines determined under section 252(d)(5) of the Bal-
19 anced Budget and Emergency Deficit Control Act of 1985.
20 Upon agreement, the chairs of the Committees on the
21 Budget of the House of Representatives and the Senate
22 shall submit updates to such guidelines for printing in the
23 Congressional Record.”.

24 (c) OMB PAYGO SCORECARDS.—

1 (1) IN GENERAL.—OMB shall maintain and
2 make publicly available a continuously updated docu-
3 ment containing two PAYGO scorecards displaying
4 the budgetary effects of PAYGO legislation as deter-
5 mined under section 308 of the Congressional Budg-
6 et Act of 1974, applying the look-back requirement
7 in subsection (e) and the averaging requirement in
8 subsection (f), and a separate addendum displaying
9 the estimates of the costs of provisions designated in
10 statute as emergency requirements.

11 (2) ESTIMATES IN LEGISLATION.—Except as
12 provided in paragraph (3), in making the calcula-
13 tions for the PAYGO scorecards, OMB shall use the
14 budgetary effects included by reference in the appli-
15 cable legislation.

16 (3) OMB ESTIMATES.—If legislation does not
17 contain the estimate of budgetary effects under
18 paragraph (2), then OMB shall score the budgetary
19 effects of that legislation upon its enactment, based
20 on the approaches to scorekeeping set forth in this
21 subtitle.

22 (4) 5-YEAR SCORECARD.—The first scorecard
23 shall display the budgetary effects of PAYGO legis-
24 lation in each year over the 5-year period beginning
25 in the budget year.

1 (5) 10-YEAR SCORECARD.—The second score-
2 card shall display the budgetary effects of PAYGO
3 legislation in each year over the 10-year period be-
4 ginning in the budget year.

5 (d) LOOK-BACK TO CAPTURE CURRENT-YEAR EF-
6 FECTS.—For purposes of this section, OMB shall treat the
7 budgetary effects of PAYGO legislation enacted during a
8 session of Congress that occur during the current year as
9 though they occurred in the budget year.

10 (e) AVERAGING USED TO MEASURE COMPLIANCE
11 OVER 5-YEAR AND 10-YEAR PERIODS.—OMB shall cu-
12 mulate the budgetary effects of a PAYGO Act over the
13 budget year (which includes any look-back effects under
14 subsection (d)) and—

15 (1) for purposes of the 5-year scorecard re-
16 ferred to in subsection (c)(4), the four subsequent
17 outyears, divide that cumulative total by five, and
18 enter the quotient in the budget-year column and in
19 each subsequent column of the 5-year PAYGO score-
20 card; and

21 (2) for purposes of the 10-year scorecard re-
22 ferred to in subsection (c)(5), the nine subsequent
23 outyears, divide that cumulative total by ten, and
24 enter the quotient in the budget-year column and in

1 each subsequent column of the 10-year PAYGO
2 scorecard.

3 **SEC. 1303. ANNUAL REPORT AND SEQUESTRATION ORDER.**

4 (a) ANNUAL REPORT.—Not later than 14 days (ex-
5 cluding weekends and holidays) after Congress adjourns
6 to end a session, OMB shall make publicly available and
7 cause to be printed in the Federal Register an annual
8 PAYGO report. The report shall include an up-to-date
9 document containing the PAYGO scorecards, information
10 about emergency legislation (if any) designated under this
11 subtitle, information about any sequestration if required
12 by subsection (b), and other data and explanations that
13 enhance public understanding of this subtitle and actions
14 taken under it.

15 (b) SEQUESTRATION ORDER.—If the annual report
16 issued at the end of a session of Congress under sub-
17 section (a) shows a debit on either PAYGO scorecard for
18 the budget year, OMB shall prepare and the President
19 shall issue and include in that report a sequestration order
20 that, upon issuance, shall reduce budgetary resources of
21 direct spending programs by enough to offset that debit
22 as prescribed in section 1306. If there is a debit on both
23 scorecards, the order shall fully offset the larger of the
24 two debits. OMB shall include that order in the annual
25 report and transmit it to the House of Representatives

1 and the Senate. If the President issues a sequestration
2 order, the annual report shall contain, for each budget ac-
3 count to be sequestered, estimates of the baseline level of
4 budgetary resources subject to sequestration, the amount
5 of budgetary resources to be sequestered, and the outlay
6 reductions that will occur in the budget year and the sub-
7 sequent fiscal year because of that sequestration.

8 **SEC. 1304. CALCULATING A SEQUESTRATION.**

9 (a) REDUCING NONEXEMPT BUDGETARY RE-
10 SOURCES BY A UNIFORM PERCENTAGE.—OMB shall cal-
11 culate the uniform percentage by which the budgetary re-
12 sources of nonexempt direct spending programs are to be
13 sequestered such that the outlay savings resulting from
14 that sequestration, as calculated under subsection (b),
15 shall offset the budget-year debit, if any on the applicable
16 PAYGO scorecard. If the uniform percentage calculated
17 under the prior sentence exceeds 4 percent, the Medicare
18 programs described in section 256(d) of BBEDCA shall
19 be reduced by 4 percent and the uniform percentage by
20 which the budgetary resources of all other nonexempt di-
21 rect spending programs are to be sequestered shall be in-
22 creased, as necessary, so that the sequestration of Medi-
23 care and of all other nonexempt direct spending programs
24 together produce the required outlay savings.

1 (b) OUTLAY SAVINGS.—In determining the amount
2 by which a sequestration offsets a budget-year debit, OMB
3 shall count—

4 (1) the amount by which the sequestration in a
5 crop year of crop support payments, pursuant to
6 section 256(j) of BBEDCA, reduces outlays in the
7 budget year and the subsequent fiscal year;

8 (2) the amount by which the sequestration of
9 Medicare payments in the 12-month period following
10 the sequestration order, pursuant to section 256(d)
11 of BBEDCA, reduces outlays in the budget year and
12 the subsequent fiscal year; and

13 (3) the amount by which the sequestration in
14 the budget year of the budgetary resources of other
15 nonexempt mandatory programs reduces outlays in
16 the budget year and in the subsequent fiscal year.

17 **SEC. 1305. APPLICATION OF BBEDCA.**

18 For purposes of this subtitle—

19 (1) notwithstanding section 275 of BBEDCA,
20 the provisions of sections 255, 256, 257, and 274 of
21 BBEDCA, as amended by this subtitle, shall apply
22 to the provisions of this subtitle;

23 (2) references in sections 255, 256, 257, and
24 274 to “this part” or “this title” shall be interpreted
25 as applying to this subtitle;

1 (3) references in sections 255, 256, 257, and
2 274 of BBEDCA to “section 254” shall be inter-
3 preted as referencing section 1303 of this subtitle;

4 (4) the reference in section 256(b) of BBEDCA
5 to “section 252 or 253” shall be interpreted as ref-
6 erencing section 1303 of this subtitle;

7 (5) the reference in section 256(d)(1) of
8 BBEDCA to “section 252 or 253” shall be inter-
9 preted as referencing section 1304 of this subtitle;

10 (6) the reference in section 256(d)(4) of
11 BBEDCA to “section 252 or 253” shall be inter-
12 preted as referencing section 1303 of this subtitle;

13 (7) section 256(k) of BBEDCA shall apply to
14 a sequestration, if any, under this subtitle; and

15 (8) references in section 257(e) of BBEDCA to
16 “section 251, 252, or 253” shall be interpreted as
17 referencing section 1302 of this subtitle.

18 **SEC. 1306. TECHNICAL CORRECTIONS.**

19 (a) Section 250(c)(18) of BBEDCA is amended by
20 striking “the expenses the Federal deposit insurance agen-
21 cies” and inserting “the expenses of the Federal deposit
22 insurance agencies”.

23 (b) Section 256(k)(1) of BBEDCA is amended by
24 striking “in paragraph (5)” and inserting “in paragraph
25 (6)”.

1 **SEC. 1307. CONFORMING AMENDMENTS.**

2 (a) Section 256(a) of BBEDCA is repealed.

3 (b) Section 256(b) of BBEDCA is amended by strik-
4 ing “origination fees under sections 438(c)(2) and 455(c)
5 of that Act shall each be increased by 0.50 percentage
6 point.” and inserting in lieu thereof “origination fees
7 under sections 438(c) (2) and (6) and 455(c) and loan
8 processing and issuance fees under section
9 428(f)(1)(A)(ii) of that Act shall each be increased by the
10 uniform percentage specified in that sequestration order,
11 and, for student loans originated during the period of the
12 sequestration, special allowance payments under section
13 438(b) of that Act accruing during the period of the se-
14 questration shall be reduced by the uniform percentage
15 specified in that sequestration order.”.

16 (c) Section 256(c) of BBEDCA is repealed.

17 (d) Section 256(d) of BBEDCA is amended—

18 (1) by redesignating paragraphs (2), (3), and
19 (4) as paragraphs (3), (5), and (6);

20 (2) by amending paragraph (1) to read as fol-
21 lows:

22 “(1) CALCULATION OF REDUCTION IN PAYMENT
23 AMOUNTS.—To achieve the total percentage reduc-
24 tion in those programs required by section 252 or
25 253, subject to paragraph (2), and notwithstanding
26 section 710 of the Social Security Act, OMB shall

1 determine, and the applicable Presidential order
2 under section 254 shall implement, the percentage
3 reduction that shall apply, with respect to the health
4 insurance programs under title XVIII of the Social
5 Security Act—

6 “(A) in the case of parts A and B of such
7 title, to individual payments for services fur-
8 nished during the one-year period beginning on
9 the first day of the first month beginning after
10 the date the order is issued (or, if later, the
11 date specified in paragraph (4)); and

12 “(B) in the case of parts C and D, to
13 monthly payments under contracts under such
14 parts for the same one-year period;

15 such that the reduction made in payments under
16 that order shall achieve the required total percentage
17 reduction in those payments for that period.”;

18 (3) by inserting after paragraph (1) the fol-
19 lowing:

20 “(2) UNIFORM REDUCTION RATE; MAXIMUM
21 PERMISSIBLE REDUCTION.—Reductions in payments
22 for programs and activities under such title XVIII
23 pursuant to a sequestration order under section 254
24 shall be at a uniform rate, which shall not exceed 4

1 percent, across all such programs and activities sub-
2 ject to such order.”;

3 (4) by inserting after paragraph (3), as redesign-
4 nated, the following:

5 “(4) TIMING OF SUBSEQUENT SEQUESTRATION
6 ORDER.—A sequestration order required by section
7 252 or 253 with respect to programs under such
8 title XVIII shall not take effect until the first month
9 beginning after the end of the effective period of any
10 prior sequestration order with respect to such pro-
11 grams, as determined in accordance with paragraph
12 (1).”;

13 (5) in paragraph (6), as redesignated, to read
14 as follows:

15 “(6) SEQUESTRATION DISREGARDED IN COM-
16 PUTING PAYMENT AMOUNTS.—The Secretary of
17 Health and Human Services shall not take into ac-
18 count any reductions in payment amounts which
19 have been or may be effected under this part, for
20 purposes of computing any adjustments to payment
21 rates under such title XVIII, specifically including—

22 “(A) the part C growth percentage under
23 section 1853(e)(6);

24 “(B) the part D annual growth rate under
25 section 1860D–2(b)(6); and

1 “(C) application of risk corridors to part D
2 payment rates under section 1860D–15(e).”;
3 and

4 (6) by adding after paragraph (6), as redesign-
5 nated, the following:

6 “(7) EXEMPTIONS FROM SEQUESTRATION.—In
7 addition to the programs and activities specified in
8 section 255, the following shall be exempt from se-
9 questration under this part:

10 “(A) PART D LOW-INCOME SUBSIDIES.—
11 Premium and cost-sharing subsidies under sec-
12 tion 1860D–14 of the Social Security Act.

13 “(B) PART D CATASTROPHIC SUBSIDY.—
14 Payments under section 1860D–15(b) and
15 (e)(2)(B) of the Social Security Act.

16 “(C) QUALIFIED INDIVIDUAL (QI) PRE-
17 MIUMS.—Payments to States for coverage of
18 Medicare cost-sharing for certain low-income
19 Medicare beneficiaries under section 1933 of
20 the Social Security Act.”.

21 **SEC. 1308. EXEMPT PROGRAMS AND ACTIVITIES.**

22 (a) DESIGNATIONS.—Section 255 of BBEDCA is
23 amended by redesignating subsection (i) as (j) and strik-
24 ing “1998” and inserting in lieu thereof “2010”.

1 (b) SOCIAL SECURITY, VETERANS PROGRAMS, NET
2 INTEREST, AND TAX CREDITS.—Subsections (a) through
3 (d) of section 255 of BBEDCA are amended to read as
4 follows:

5 “(a) SOCIAL SECURITY BENEFITS AND TIER I RAIL-
6 ROAD RETIREMENT BENEFITS.—Benefits payable under
7 the old-age, survivors, and disability insurance program
8 established under title II of the Social Security Act (42
9 U.S.C. 401 et seq.), and benefits payable under section
10 231b(a), 231b(f)(2), 231c(a), and 231c(f) of title 45
11 United States Code, shall be exempt from reduction under
12 any order issued under this part.

13 “(b) VETERANS PROGRAMS.—The following program
14 shall be exempt from reduction under any order issued
15 under this part—

16 “All programs administered by the Department
17 of Veterans Affairs.

18 “Special Benefits for Certain World War II
19 Veterans (28–0401–0–1–701).

20 “(c) NET INTEREST.—No reduction of payments for
21 net interest (all of major functional category 900) shall
22 be made under any order issued under this part.

23 “(d) REFUNDABLE INCOME TAX CREDITS.—Pay-
24 ments to individuals made pursuant to provisions of the
25 Internal Revenue Code of 1986 establishing refundable

1 tax credits shall be exempt from reduction under any order
2 issued under this part.”.

3 (c) OTHER PROGRAMS AND ACTIVITIES, LOW-IN-
4 COME PROGRAMS, AND ECONOMIC RECOVERY PRO-
5 GRAMS.—Subsections (g) and (h) of section 255 of
6 BBEDCA are amended to read as follows:

7 “(g) OTHER PROGRAMS AND ACTIVITIES.—

8 “(1)(A) The following budget accounts and ac-
9 tivities shall be exempt from reduction under any
10 order issued under this part:

11 “Activities resulting from private dona-
12 tions, bequests, or voluntary contributions to
13 the Government.

14 “Activities financed by voluntary payments
15 to the Government for goods or services to be
16 provided for such payments.

17 “Administration of Territories, Northern
18 Mariana Islands Covenant grants (14-0412-0-
19 1-808).

20 “Advances to the Unemployment Trust
21 Fund and Other Funds (16-0327-0-1-600).

22 “Black Lung Disability Trust Fund Refi-
23 nancing (16-0329-0-1-601).

24 “Bonneville Power Administration Fund
25 and borrowing authority established pursuant

1 to section 13 of Public Law 93-454 (1974), as
2 amended (89-4045-0-3-271).

3 “Claims, Judgments, and Relief Acts (20-
4 1895-0-1-808).

5 “Compact of Free Association (14-0415-
6 0-1-808).

7 “Compensation of the President (11-
8 0209-01-1-802).

9 “Comptroller of the Currency, Assessment
10 Funds (20-8413-0-8-373).

11 “Continuing Fund, Southeastern Power
12 Administration (89-5653-0-2-271).

13 “Continuing Fund, Southwestern Power
14 Administration (89-5649-0-2-271).

15 “Dual Benefits Payments Account (60-
16 0111-0-1-601).

17 “Emergency Fund, Western Area Power
18 Administration (89-5069-0-2-271).

19 “Exchange Stabilization Fund (20-4444-
20 0-3-155).

21 “Federal Deposit Insurance Corporation,
22 Deposit Insurance Fund (51-4596-4-4-373).

23 “Federal Deposit Insurance Corporation,
24 FSLIC Resolution Fund (51-4065-0-3-373).

1 “Federal Deposit Insurance Corporation,
2 Noninterest Bearing Transaction Account
3 Guarantee (51-4458-0-3-373).

4 “Federal Deposit Insurance Corporation,
5 Senior Unsecured Debt Guarantee (51-4457-
6 0-3-373).

7 “Federal Housing Finance Agency, Admin-
8 istrative Expenses (95-5532-0-2-371).

9 “Federal Payment to the District of Co-
10 lumbia Judicial Retirement and Survivors An-
11 nuity Fund (20-1713-0-1-752).

12 “Federal Payment to the District of Co-
13 lumbia Pension Fund (20-1714-0-1-601).

14 “Federal Payments to the Railroad Retire-
15 ment Accounts (60-0113-0-1-601).

16 “Federal Reserve Bank Reimbursement
17 Fund (20-1884-0-1-803).

18 “Financial Agent Services (20-1802-0-1-
19 803).

20 “Foreign Military Sales Trust Fund (11-
21 8242-0-7-155).

22 “Hazardous Waste Management, Con-
23 servation Reserve Program (12-4336-0-3-
24 999).

1 “Host Nation Support Fund for Relocation
2 (97-8337-0-7-051).

3 “Internal Revenue Collections for Puerto
4 Rico (20-5737-0-2-806).

5 “Intragovernmental funds, including those
6 from which the outlays are derived primarily
7 from resources paid in from other government
8 accounts, except to the extent such funds are
9 augmented by direct appropriations for the fis-
10 cal year during which an order is in effect.

11 “Medical Facilities Guarantee and Loan
12 Fund (75-9931-0-3-551).

13 “National Credit Union Administration,
14 Central Liquidity Facility (25-4470-0-3-373).

15 “National Credit Union Administration,
16 Corporate Credit Union Share Guarantee Pro-
17 gram (25-4476-0-3-376).

18 “National Credit Union Administration,
19 Credit Union Homeowners Affordability Relief
20 Program (25-4473-0-3-371).

21 “National Credit Union Administration,
22 Credit Union Share Insurance Fund (25-4468-
23 0-3-373).

1 “National Credit Union Administration,
2 Credit Union System Investment Program (25–
3 4474–0–3–376).

4 “National Credit Union Administration,
5 Operating fund (25–4056–0–3–373).

6 “National Credit Union Administration,
7 Share Insurance Fund Corporate Debt Guar-
8 antee Program (25–4469–0–3–376).

9 “National Credit Union Administration,
10 U.S. Central Federal Credit Union Capital Pro-
11 gram (25–4475–0–3–376).

12 “Office of Thrift Supervision (20–4108–0–
13 3–373).

14 “Panama Canal Commission Compensation
15 Fund (16–5155–0–2–602).

16 “Payment of Vietnam and USS Pueblo
17 prisoner-of-war claims within the Salaries and
18 Expenses, Foreign Claims Settlement account
19 (15–0100–0–1–153).

20 “Payment to Civil Service Retirement and
21 Disability Fund (24–0200–0–1–805).

22 “Payment to Department of Defense Medi-
23 care-Eligible Retiree Health Care Fund (97–
24 0850–0–1–054).

1 “Payment to Judiciary Trust Funds (10–
2 0941–0–1–752).

3 “Payment to Military Retirement Fund
4 (97–0040–0–1–054).

5 “Payment to the Foreign Service Retire-
6 ment and Disability Fund (19–0540–0–1–153).

7 “Payments to Copyright Owners (03–
8 5175–0–2–376).

9 “Payments to Health Care Trust Funds
10 (75–0580–0–1–571).

11 “Payment to Radiation Exposure Com-
12 pensation Trust Fund (15–0333–0–1–054).

13 “Payments to Social Security Trust Funds
14 (28–0404–0–1–651).

15 “Payments to the United States Terri-
16 tories, Fiscal Assistance (14–0418–0–1–806).

17 “Payments to trust funds from excise
18 taxes or other receipts properly creditable to
19 such trust funds.

20 “Payments to widows and heirs of de-
21 ceased Members of Congress (00–0215–0–1–
22 801).

23 “Postal Service Fund (18–4020–0–3–372).

24 “Radiation Exposure Compensation Trust
25 Fund (15–8116–0–1–054).

1 “Reimbursement to Federal Reserve Banks
2 (20-0562-0-1-803).

3 “Salaries of Article III judges.

4 “Soldiers and Airmen’s Home, payment of
5 claims (84-8930-0-7-705).

6 “Tennessee Valley Authority Fund, except
7 nonpower programs and activities (64-4110-0-
8 3-999).

9 “Tribal and Indian trust accounts within
10 the Department of the Interior which fund
11 prior legal obligations of the Government or
12 which are established pursuant to Acts of Con-
13 gress regarding Federal management of tribal
14 real property or other fiduciary responsibilities,
15 including but not limited to Tribal Special
16 Fund (14-5265-0-2-452), Tribal Trust Fund
17 (14-8030-0-7-452), White Earth Settlement
18 (14-2204-0-1-452), and Indian Water Rights
19 and Habitat Acquisition (14-5505-0-2-303).

20 “United Mine Workers of America 1992
21 Benefit Plan (95-8260-0-7-551).

22 “United Mine Workers of America 1993
23 Benefit Plan (95-8535-0-7-551).

24 “United Mine Workers of America Com-
25 bined Benefit Fund (95-8295-0-7-551).

1 “United States Enrichment Corporation
2 Fund (95-4054-0-3-271).

3 “Universal Service Fund (27-5183-0-2-
4 376).

5 “Vaccine Injury Compensation (75-0320-
6 0-1-551).

7 “Vaccine Injury Compensation Program
8 Trust Fund (20-8175-0-7-551).

9 “(B) The following Federal retirement and dis-
10 ability accounts and activities shall be exempt from
11 reduction under any order issued under this part:

12 “Black Lung Disability Trust Fund (20-
13 8144-0-7-601).

14 “Central Intelligence Agency Retirement
15 and Disability System Fund (56-3400-0-1-
16 054).

17 “Civil Service Retirement and Disability
18 Fund (24-8135-0-7-602).

19 “Comptrollers general retirement system
20 (05-0107-0-1-801).

21 “Contributions to U.S. Park Police annu-
22 ity benefits, Other Permanent Appropriations
23 (14-9924-0-2-303).

24 “Court of Appeals for Veterans Claims Re-
25 tirement Fund (95-8290-0-7-705).

1 “Department of Defense Medicare-Eligible
2 Retiree Health Care Fund (97-5472-0-2-551).

3 “District of Columbia Federal Pension
4 Fund (20-5511-0-2-601).

5 “District of Columbia Judicial Retirement
6 and Survivors Annuity Fund (20-8212-0-7-
7 602).

8 “Energy Employees Occupational Illness
9 Compensation Fund (16-1523-0-1-053).

10 “Foreign National Employees Separation
11 Pay (97-8165-0-7-051).

12 “Foreign Service National Defined Con-
13 tributions Retirement Fund (19-5497-0-2-
14 602).

15 “Foreign Service National Separation Li-
16 ability Trust Fund (19-8340-0-7-602).

17 “Foreign Service Retirement and Dis-
18 ability Fund (19-8186-0-7-602).

19 “Government Payment for Annuitants,
20 Employees Health Benefits (24-0206-0-1-
21 551).

22 “Government Payment for Annuitants,
23 Employee Life Insurance (24-0500-0-1-602).

24 “Judicial Officers’ Retirement Fund (10-
25 8122-0-7-602).

1 “Judicial Survivors’ Annuities Fund (10–
2 8110–0–7–602).

3 “Military Retirement Fund (97–8097–0–
4 7–602).

5 “National Railroad Retirement Investment
6 Trust (60–8118–0–7–601).

7 “National Oceanic and Atmospheric Ad-
8 ministration retirement (13–1450–0–1–306).

9 “Pensions for former Presidents (47–
10 0105–0–1–802).

11 “Postal Service Retiree Health Benefits
12 Fund (24–5391–0–2–551).

13 “Public Safety Officer Benefits (15–0403–
14 0–1–754).

15 “Rail Industry Pension Fund (60–8011–
16 0–7–601).

17 “Retired Pay, Coast Guard (70–0602–0–
18 1–403).

19 “Retirement Pay and Medical Benefits for
20 Commissioned Officers, Public Health Service
21 (75–0379–0–1–551).

22 “Special Benefits for Disabled Coal Miners
23 (16–0169–0–1–601).

24 “Special Benefits, Federal Employees’
25 Compensation Act (16–1521–0–1–600).

1 “Special Workers Compensation Expenses
2 (16-9971-0-7-601).

3 “Tax Court Judges Survivors Annuity
4 Fund (23-8115-0-7-602).

5 “United States Court of Federal Claims
6 Judges’ Retirement Fund (10-8124-0-7-602).

7 “United States Secret Service, DC Annuity
8 (70-0400-0-1-751).

9 “Voluntary Separation Incentive Fund
10 (97-8335-0-7-051).

11 “(2) Prior legal obligations of the Government
12 in the following budget accounts and activities shall
13 be exempt from any order issued under this part:

14 “Biomass Energy Development (20-0114-
15 0-1-271).

16 “Check Forgery Insurance Fund (20-
17 4109-0-3-803).

18 “Credit liquidating accounts.

19 “Credit reestimates.

20 “Employees Life Insurance Fund (24-
21 8424-0-8-602).

22 “Federal Aviation Insurance Revolving
23 Fund (69-4120-0-3-402).

24 “Federal Crop Insurance Corporation
25 Fund (12-4085-0-3-351).

1 “Federal Emergency Management Agency,
2 National Flood Insurance Fund (58-4236-0-
3 3-453).

4 “Federal Home Loan Mortgage Corpora-
5 tion (Freddie Mac).

6 “Federal National Mortgage Corporation
7 (Fannie Mae).

8 “Geothermal resources development fund
9 (89-0206-0-1-271).

10 “Low-Rent Public Housing—Loans and
11 Other Expenses (86-4098-0-3-604).

12 “Maritime Administration, War Risk In-
13 surance Revolving Fund (69-4302-0-3-403).

14 “Natural Resource Damage Assessment
15 Fund (14-1618-0-1-302).

16 “Overseas Private Investment Corporation,
17 Noncredit Account (71-4184-0-3-151).

18 “Pension Benefit Guaranty Corporation
19 Fund (16-4204-0-3-601).

20 “San Joaquin Restoration Fund (14-
21 5537-0-2-301).

22 “Servicemembers’ Group Life Insurance
23 Fund (36-4009-0-3-701).

24 “Terrorism Insurance Program (20-0123-
25 0-1-376).

1 “(h) LOW-INCOME PROGRAMS.—The following pro-
2 grams shall be exempt from reduction under any order
3 issued under this part:

4 “Academic Competitiveness/Smart Grant Pro-
5 gram (91–0205–0–1–502).

6 “Child Care Entitlement to States (75–1550–
7 0–1–609).

8 “Child Enrollment Contingency Fund (75–
9 5551–0–2–551).

10 “Child Nutrition Programs (with the exception
11 of special milk programs) (12–3539–0–1–605).

12 “Children’s Health Insurance Fund (75–0515–
13 0–1–551).

14 “Commodity Supplemental Food Program (12–
15 3507–0–1–605).

16 “Contingency Fund (75–1522–0–1–609).

17 “Family Support Programs (75–1501–0–1–
18 609).

19 “Federal Pell Grants under section 401 Title
20 IV of the Higher Education Act.

21 “Grants to States for Medicaid (75–0512–0–1–
22 551).

23 “Payments for Foster Care and Permanency
24 (75–1545–0–1–609).

1 “Supplemental Nutrition Assistance Program
2 (12-3505-0-1-605).

3 “Supplemental Security Income Program (28-
4 0406-0-1-609).

5 “Temporary Assistance for Needy Families
6 (75-1552-0-1-609).”.

7 (d) ECONOMIC RECOVERY PROGRAMS.—Section 255
8 of BBEDCA is amended by adding the following after
9 subsection (h):

10 “(i) ECONOMIC RECOVERY PROGRAMS.—The fol-
11 lowing programs shall be exempt from reduction under
12 any order issued under this part:

13 “All programs enacted in, or increases in pro-
14 grams provided by, the American Recovery and Re-
15 investment Act of 2009.

16 “Exchange Stabilization Fund-Money Market
17 Mutual Fund Guaranty Facility (20-4274-0-3-
18 376).

19 “Financial Stabilization Reserve (20-0131-4-
20 1-376).

21 “GSE Mortgage-Backed Securities Purchase
22 Program Account (20-0126-0-1-371).

23 “GSE Preferred Stock Purchase Agreements
24 (20-0125-0-1-371).

“First Session

On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

“Second Session

On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

1 “(b) SPECIAL RULE.—In the case of any first session
2 of Congress that begins in any year immediately following
3 a leap year and during which the term of a President (ex-
4 cept a President who succeeds himself or herself) begins,
5 the following dates shall supersede those set forth in sub-
6 section (a):

“First Session

On or before:	Action to be completed:
First Monday in April	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.

“First Session—Continued

July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.”.

1 **SEC. 1403. AMENDMENTS TO THE CONGRESSIONAL BUDGET**
2 **AND IMPOUNDMENT CONTROL ACT OF 1974.**

3 (a) DECLARATION OF PURPOSE.—Section 2(2) of the
4 Congressional Budget and Impoundment Control Act of
5 1974 (2 U.S.C. 621(2)) is amended by striking “each
6 year” and inserting “biennially”.

7 (b) DEFINITIONS.—

8 (1) BUDGET RESOLUTION.—Section 3(4) of
9 such Act (2 U.S.C. 622(4)) is amended by striking
10 “fiscal year” each place it appears and inserting “bi-
11 ennium”.

12 (2) BIENNIUM.—Section 3 of such Act (2
13 U.S.C. 622) is further amended by adding at the
14 end the following new paragraph:

15 “(11) The term ‘biennium’ means the period of
16 2 consecutive fiscal years beginning on October 1 of
17 any odd-numbered year.”.

18 (c) BIENNIAL CONCURRENT RESOLUTION ON THE
19 BUDGET.—

1 (1) SECTION HEADING.—The section heading of
2 section 301 of such Act is amended by striking “**AN-**
3 **NUAL**” and inserting “**BIENNIAL**”.

4 (2) CONTENTS OF RESOLUTION.—Section
5 301(a) of such Act (2 U.S.C. 632(a)) is amended—

6 (A) in the matter preceding paragraph (1)
7 by—

8 (i) striking “April 15 of each year”
9 and inserting “May 15 of each odd-num-
10 bered year”;

11 (ii) striking “the fiscal year beginning
12 on October 1 of such year” the first place
13 it appears and inserting “the biennium be-
14 ginning on October 1 of such year”; and

15 (iii) striking “the fiscal year beginning
16 on October 1 of such year” the second
17 place it appears and inserting “each fiscal
18 year in such period”;

19 (B) in paragraph (6), by striking “for the
20 fiscal year” and inserting “for each fiscal year
21 in the biennium”; and

22 (C) in paragraph (7), by striking “for the
23 fiscal year” and inserting “for each fiscal year
24 in the biennium”.

1 (3) ADDITIONAL MATTERS.—Section 301(b)(3)
2 of such Act (2 U.S.C. 632(b)) is amended by strik-
3 ing “for such fiscal year” and inserting “for either
4 fiscal year in such biennium”.

5 (4) VIEWS OF OTHER COMMITTEES.—Section
6 301(d) of such Act (2 U.S.C. 632(d)) is amended by
7 inserting “(or, if applicable, as provided by section
8 300(b))” after “United States Code”.

9 (5) HEARINGS.—Section 301(e)(1) of such Act
10 (2 U.S.C. 632(e)) is amended by—

11 (A) striking “fiscal year” and inserting
12 “biennium”; and

13 (B) inserting after the second sentence the
14 following: “On or before April 1 of each odd-
15 numbered year (or, if applicable, as provided by
16 section 300(b)), the Committee on the Budget
17 of each House shall report to its House the con-
18 current resolution on the budget referred to in
19 subsection (a) for the biennium beginning on
20 October 1 of that year.”.

21 (6) GOALS FOR REDUCING UNEMPLOYMENT.—
22 Section 301(f) of such Act (2 U.S.C. 632(f)) is
23 amended by striking “fiscal year” each place it ap-
24 pears and inserting “biennium”.

1 (7) ECONOMIC ASSUMPTIONS.—Section
2 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is
3 amended by striking “for a fiscal year” and insert-
4 ing “for a biennium”.

5 (8) TABLE OF CONTENTS.—The item relating
6 to section 301 in the table of contents set forth in
7 section 1(b) of such Act is amended by striking “An-
8 nual” and inserting “Biennial”.

9 (d) COMMITTEE ALLOCATIONS.—Section 302 of such
10 Act (2 U.S.C. 633) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1), by—

13 (i) striking “for the first fiscal year of
14 the resolution,” and inserting “for each
15 fiscal year in the biennium,”;

16 (ii) striking “for that period of fiscal
17 years” and inserting “for all fiscal years
18 covered by the resolution”; and

19 (iii) striking “for the fiscal year of
20 that resolution” and inserting “for each
21 fiscal year in the biennium”; and

22 (B) in paragraph (5), by striking “April
23 15” and inserting “May 15 or June 1 (under
24 section 300(b))”;

1 (2) in subsection (b), by striking “budget year”
2 and inserting “biennium”;

3 (3) in subsection (c) by striking “for a fiscal
4 year” each place it appears and inserting “for each
5 fiscal year in the biennium”;

6 (4) in subsection (f)(1), by striking “for a fiscal
7 year” and inserting “for a biennium”;

8 (5) in subsection (f)(1), by striking “the first
9 fiscal year” and inserting “each fiscal year of the bi-
10 ennium”;

11 (6) in subsection (f)(2)(A), by—

12 (A) striking “the first fiscal year” and in-
13 serting “each fiscal year of the biennium”; and

14 (B) striking “the total of fiscal years” and
15 inserting “the total of all fiscal years covered by
16 the resolution”; and

17 (7) in subsection (g)(1)(A), by striking “April”
18 and inserting “May”.

19 (e) SECTION 303 POINT OF ORDER.—

20 (1) IN GENERAL.—Section 303(a) of such Act
21 (2 U.S.C. 634(a)) is amended by—

22 (A) striking “the first fiscal year” and in-
23 serting “each fiscal year of the biennium”; and

24 (B) striking “that fiscal year” each place
25 it appears and inserting “that biennium”.

1 (2) EXCEPTIONS IN THE HOUSE.—Section
2 303(b)(1) of such Act (2 U.S.C. 634(b)) is amend-
3 ed—

4 (A) in subparagraph (A), by striking “the
5 budget year” and inserting “the biennium”;
6 and

7 (B) in subparagraph (B), by striking “the
8 fiscal year” and inserting “the biennium”.

9 (3) APPLICATION TO THE SENATE.—Section
10 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended
11 by—

12 (A) striking “fiscal year” and inserting
13 “biennium”; and

14 (B) striking “that year” and inserting
15 “each fiscal year of that biennium”.

16 (f) PERMISSIBLE REVISIONS OF CONCURRENT RESO-
17 LUTIONS ON THE BUDGET.—Section 304(a) of such Act
18 (2 U.S.C. 635) is amended—

19 (1) by striking “fiscal year” the first two places
20 it appears and inserting “biennium”; and

21 (2) by striking “for such fiscal year” and in-
22 serting “for such biennium”.

23 (g) PROCEDURES FOR CONSIDERATION OF BUDGET
24 RESOLUTIONS.—Section 305 of such Act (2 U.S.C.
25 636(3)) is amended—

1 (1) in subsection (a)(3), by striking “fiscal
2 year” and inserting “biennium”; and

3 (2) in subsection (b)(3), by striking “fiscal
4 year” and inserting “biennium”.

5 (h) COMPLETION OF HOUSE ACTION ON APPROPRIA-
6 TION BILLS.—Section 307 of such Act (2 U.S.C. 638) is
7 amended—

8 (1) by striking “each year” and inserting “each
9 odd-numbered year”;

10 (2) by striking “annual” and inserting “bien-
11 nial”;

12 (3) by striking “fiscal year” and inserting “bi-
13 ennium”; and

14 (4) by striking “that year” and inserting “each
15 odd-numbered year”.

16 (i) COMPLETION OF ACTION ON REGULAR APPRO-
17 PRIATION BILLS.—Section 309 of such Act (2 U.S.C.
18 640) is amended—

19 (1) by inserting “of any odd-numbered calendar
20 year” after “July”;

21 (2) by striking “annual” and inserting “bien-
22 nial”; and

23 (3) by striking “fiscal year” and inserting “bi-
24 ennium”.

1 (j) RECONCILIATION PROCESS.—Section 310(a) of
2 such Act (2 U.S.C. 641(a)) is amended—

3 (1) in the matter preceding paragraph (1), by
4 striking “any fiscal year” and inserting “any bien-
5 nium”; and

6 (2) in paragraph (1) by striking “such fiscal
7 year” each place it appears and inserting “any fiscal
8 year covered by such resolution”.

9 (k) SECTION 311 POINT OF ORDER.—

10 (1) IN THE HOUSE.—Section 311(a)(1) of such
11 Act (2 U.S.C. 642(a)) is amended—

12 (A) by striking “for a fiscal year” and in-
13 serting “for a biennium”;

14 (B) by striking “the first fiscal year” each
15 place it appears and inserting “either fiscal
16 year of the biennium”; and

17 (C) by striking “that first fiscal year” and
18 inserting “each fiscal year in the biennium”.

19 (2) IN THE SENATE.—Section 311(a)(2) of
20 such Act is amended—

21 (A) in subparagraph (A), by striking “for
22 the first fiscal year” and inserting “for either
23 fiscal year of the biennium”; and

24 (B) in subparagraph (B)—

1 (i) by striking “that first fiscal year”
2 the first place it appears and inserting
3 “each fiscal year in the biennium”; and

4 (ii) by striking “that first fiscal year
5 and the ensuing fiscal years” and inserting
6 “all fiscal years”.

7 (3) SOCIAL SECURITY LEVELS.—Section
8 311(a)(3) of such Act is amended by—

9 (A) striking “for the first fiscal year” and
10 inserting “each fiscal year in the biennium”;
11 and

12 (B) striking “that fiscal year and the ensu-
13 ing fiscal years” and inserting “all fiscal
14 years”.

15 (l) MDA POINT OF ORDER.—Section 312(c) of the
16 Congressional Budget Act of 1974 (2 U.S.C. 643) is
17 amended—

18 (1) by striking “for a fiscal year” and inserting
19 “for a biennium”;

20 (2) in paragraph (1), by striking “the first fis-
21 cal year” and inserting “either fiscal year in the bi-
22 ennium”;

23 (3) in paragraph (2), by striking “that fiscal
24 year” and inserting “either fiscal year in the bien-
25 nium”; and

1 (4) in the matter following paragraph (2), by
2 striking “that fiscal year” and inserting “the appli-
3 cable fiscal year”.

4 **SEC. 1404. AMENDMENTS TO TITLE 31, UNITED STATES**
5 **CODE.**

6 (a) DEFINITION.—Section 1101 of title 31, United
7 States Code, is amended by adding at the end thereof the
8 following new paragraph:

9 “(3) ‘biennium’ has the meaning given to such
10 term in paragraph (11) of section 3 of the Congres-
11 sional Budget and Impoundment Control Act of
12 1974 (2 U.S.C. 622(11)).”.

13 (b) BUDGET CONTENTS AND SUBMISSION TO THE
14 CONGRESS.—

15 (1) SCHEDULE.—The matter preceding para-
16 graph (1) in section 1105(a) of title 31, United
17 States Code, is amended to read as follows:

18 “(a) On or before the first Monday in February of
19 each odd-numbered year (or, if applicable, as provided by
20 section 300(b) of the Congressional Budget Act of 1974),
21 beginning with the One Hundred Twelfth Congress, the
22 President shall transmit to the Congress, the budget for
23 the biennium beginning on October 1 of such calendar
24 year. The budget of the United States Government trans-
25 mitted under this subsection shall include a budget mes-

1 sage and summary and supporting information. The
2 President shall include in each budget the following:”.

3 (2) EXPENDITURES.—Section 1105(a)(5) of
4 title 31, United States Code, is amended by striking
5 “the fiscal year for which the budget is submitted
6 and the 4 fiscal years after that year” and inserting
7 “each fiscal year in the biennium for which the
8 budget is submitted and in the succeeding 4 fiscal
9 years”.

10 (3) RECEIPTS.—Section 1105(a)(6) of title 31,
11 United States Code, is amended by striking “the fis-
12 cal year for which the budget is submitted and the
13 4 fiscal years after that year” and inserting “each
14 fiscal year in the biennium for which the budget is
15 submitted and in the succeeding 4 years”.

16 (4) BALANCE STATEMENTS.—Section
17 1105(a)(9)(C) of title 31, United States Code, is
18 amended by striking “the fiscal year” and inserting
19 “each fiscal year in the biennium”.

20 (5) FUNCTIONS AND ACTIVITIES.—Section
21 1105(a)(12) of title 31, United States Code, is
22 amended in subparagraph (A), by striking “the fis-
23 cal year” and inserting “each fiscal year in the bien-
24 nium”.

1 (6) ALLOWANCES.—Section 1105(a)(13) of title
2 31, United States Code, is amended by striking “the
3 fiscal year” and inserting “each fiscal year in the bi-
4 ennium”.

5 (7) ALLOWANCES FOR UNCONTROLLED EX-
6 PENDITURES.—Section 1105(a)(14) of title 31,
7 United States Code, is amended by striking “that
8 year” and inserting “each fiscal year in the bien-
9 nium for which the budget is submitted”.

10 (8) TAX EXPENDITURES.—Section 1105(a)(16)
11 of title 31, United States Code, is amended by strik-
12 ing “the fiscal year” and inserting “each fiscal year
13 in the biennium”.

14 (9) FUTURE YEARS.—Section 1105(a)(17) of
15 title 31, United States Code, is amended—

16 (A) by striking “the fiscal year following
17 the fiscal year” and inserting “each fiscal year
18 in the biennium following the biennium”;

19 (B) by striking “that following fiscal year”
20 and inserting “each such fiscal year”; and

21 (C) by striking “fiscal year before the fis-
22 cal year” and inserting “biennium before the bi-
23 ennium”.

1 (10) PRIOR YEAR OUTLAYS.—Section
2 1105(a)(18) of title 31, United States Code, is
3 amended—

4 (A) by striking “the prior fiscal year” and
5 inserting “each of the 2 most recently com-
6 pleted fiscal years,”;

7 (B) by striking “for that year” and insert-
8 ing “with respect to those fiscal years”; and

9 (C) by striking “in that year” and insert-
10 ing “in those fiscal years”.

11 (11) PRIOR YEAR RECEIPTS.—Section
12 1105(a)(19) of title 31, United States Code, is
13 amended—

14 (A) by striking “the prior fiscal year” and
15 inserting “each of the 2 most recently com-
16 pleted fiscal years”;

17 (B) by striking “for that year” and insert-
18 ing “with respect to those fiscal years”; and

19 (C) by striking “in that year” each place
20 it appears and inserting “in those fiscal years”.

21 (c) ESTIMATED EXPENDITURES OF LEGISLATIVE
22 AND JUDICIAL BRANCHES.—Section 1105(b) of title 31,
23 United States Code, is amended by striking “each year”
24 and inserting “each even-numbered year”.

1 (d) RECOMMENDATIONS TO MEET ESTIMATED DE-
2 FICIENCIES.—Section 1105(c) of title 31, United States
3 Code, is amended—

4 (1) by striking “the fiscal year for” the first
5 place it appears and inserting “each fiscal year in
6 the biennium for”;

7 (2) by striking “the fiscal year for” the second
8 place it appears and inserting “each fiscal year of
9 the biennium, as the case may be, for”; and

10 (3) by striking “for that year” and inserting
11 “for each fiscal year of the biennium”.

12 (e) CAPITAL INVESTMENT ANALYSIS.—Section
13 1105(e)(1) of title 31, United States Code, is amended
14 by striking “ensuing fiscal year” and inserting “biennium
15 to which such budget relates”.

16 (f) SUPPLEMENTAL BUDGET ESTIMATES AND
17 CHANGES.—

18 (1) IN GENERAL.—Section 1106(a) of title 31,
19 United States Code, is amended—

20 (A) in the matter preceding paragraph (1),
21 by—

22 (i) inserting after “Before July 16 of
23 each year” the following: “and February
24 15 of each even-numbered year”; and

1 (ii) striking “fiscal year” and insert-
2 ing “biennium”;

3 (B) in paragraph (1), by striking “that fis-
4 cal year” and inserting “each fiscal year in
5 such biennium”;

6 (C) in paragraph (2), by striking “fiscal
7 year” and inserting “biennium”; and

8 (D) in paragraph (3), by striking “fiscal
9 year” and inserting “biennium”.

10 (2) CHANGES.—Section 1106(b) of title 31,
11 United States Code, is amended by—

12 (A) striking “the fiscal year” and inserting
13 “each fiscal year in the biennium”;

14 (B) inserting after “Before July 16 of each
15 year” the following: “and February 15 of each
16 even-numbered year”; and

17 (C) striking “submitted before July 16”
18 and inserting “required by this subsection”.

19 (g) CURRENT PROGRAMS AND ACTIVITIES ESTI-
20 MATES.—

21 (1) IN GENERAL.—Section 1109(a) of title 31,
22 United States Code, is amended—

23 (A) by striking “On or before the first
24 Monday after January 3 of each year (on or be-
25 fore February 5 in 1986)” and inserting “At

1 the same time the budget required by section
2 1105 is submitted for a biennium”; and

3 (B) by striking “the following fiscal year”
4 and inserting “each fiscal year of such period”.

5 (2) JOINT ECONOMIC COMMITTEE.—Section
6 1109(b) of title 31, United States Code, is amended
7 by striking “March 1 of each year” and inserting
8 “within 6 weeks of the President’s budget submis-
9 sion for each odd-numbered year (or, if applicable,
10 as provided by section 300(b) of the Congressional
11 Budget Act of 1974)”.

12 (h) YEAR-AHEAD REQUESTS FOR AUTHORIZING
13 LEGISLATION.—Section 1110 of title 31, United States
14 Code, is amended by—

15 (1) striking “May 16” and inserting “March
16 31”; and

17 (2) striking “year before the year in which the
18 fiscal year begins” and inserting “calendar year pre-
19 ceding the calendar year in which the biennium be-
20 gins”.

21 **SEC. 1405. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE**
22 **OF APPROPRIATIONS ACTS.**

23 Section 105 of title 1, United States Code, is amend-
24 ed to read as follows:

1 **“§ 105. Title and style of appropriations Acts**

2 “(a) The style and title of all Acts making appropria-
3 tions for the support of the Government shall be as fol-
4 lows: ‘An Act making appropriations (here insert the ob-
5 ject) for each fiscal year in the biennium of fiscal years
6 (here insert the fiscal years of the biennium).’.

7 “(b) All Acts making regular appropriations for the
8 support of the Government shall be enacted for a biennium
9 and shall specify the amount of appropriations provided
10 for each fiscal year in such period.

11 “(c) For purposes of this section, the term ‘biennium’
12 has the same meaning as in section 3(11) of the Congres-
13 sional Budget and Impoundment Control Act of 1974 (2
14 U.S.C. 622(11)).”.

15 **SEC. 1406. MULTIYEAR AUTHORIZATIONS.**

16 (a) IN GENERAL.—Title III of the Congressional
17 Budget Act of 1974 is amended by adding at the end the
18 following new section:

19 “AUTHORIZATIONS OF APPROPRIATIONS

20 “SEC. 316. (a) POINT OF ORDER.—It shall not be
21 in order in the House of Representatives or the Senate
22 to consider—

23 “(1) any bill, joint resolution, amendment, mo-
24 tion, or conference report that authorizes appropria-
25 tions for a period of less than 2 fiscal years, unless
26 the program, project, or activity for which the ap-

1 appropriations are authorized will require no further
2 appropriations and will be completed or terminated
3 after the appropriations have been expended; and

4 “(2) in any odd-numbered year, any authoriza-
5 tion or revenue bill or joint resolution until Congress
6 completes action on the biennial budget resolution,
7 all regular biennial appropriations bills, and all rec-
8 onciliation bills.

9 “(b) **APPLICABILITY.**—In the Senate, subsection (a)
10 shall not apply to—

11 “(1) any measure that is privileged for consid-
12 eration pursuant to a rule or statute;

13 “(2) any matter considered in Executive Ses-
14 sion; or

15 “(3) an appropriations measure or reconcili-
16 ation bill.”.

17 (b) **AMENDMENT TO TABLE OF CONTENTS.**—The
18 table of contents set forth in section 1(b) of the Congres-
19 sional Budget and Impoundment Control Act of 1974 is
20 amended by adding after the item relating to section 315
21 the following new item:

“Sec. 316. Authorizations of appropriations.”.

22 **SEC. 1407. GOVERNMENT PLANS ON A BIENNIAL BASIS.**

23 (a) **STRATEGIC PLANS.**—Section 306 of title 5,
24 United States Code, is amended—

1 (1) in subsection (a), by striking “September
2 30, 1997” and inserting “September 30, 2011”;

3 (2) in subsection (b)—

4 (A) by striking “five years forward” and
5 inserting “6 years forward”;

6 (B) by striking “at least every three years”
7 and inserting “at least every 4 years”; and

8 (C) by striking beginning with “, except
9 that” through “four years”; and

10 (3) in subsection (c), by inserting a comma
11 after “section” the second place it appears and add-
12 ing “including a strategic plan submitted by Sep-
13 tember 30, 2011 meeting the requirements of sub-
14 section (a)”.

15 (b) BUDGET CONTENTS AND SUBMISSION TO CON-
16 GRESS.—Paragraph (28) of section 1105(a) of title 31,
17 United States Code, is amended by striking “beginning
18 with fiscal year 1999, a” and inserting “beginning with
19 fiscal year 2010, a biennial”.

20 (c) PERFORMANCE PLANS.—Section 1115 of title 31,
21 United States Code, is amended—

22 (1) in subsection (a)—

23 (A) in the matter before paragraph (1)—

24 (i) by striking “section 1105(a)(29)”

25 and inserting “section 1105(a)(28)”; and

1 (ii) by striking “an annual” and in-
2 serting “a biennial”;

3 (B) in paragraph (1) by inserting after
4 “program activity” the following: “for both
5 years 1 and 2 of the biennial plan”;

6 (C) in paragraph (5) by striking “and”
7 after the semicolon;

8 (D) in paragraph (6) by striking the period
9 and inserting a semicolon; and inserting “and”
10 after the inserted semicolon; and

11 (E) by adding after paragraph (6) the fol-
12 lowing:

13 “(7) cover a 2-year period beginning with the
14 first fiscal year of the next biennial budget cycle.”;

15 (2) in subsection (d) by striking “annual” and
16 inserting “biennial”; and

17 (3) in paragraph (6) of subsection (f) by strik-
18 ing “annual” and inserting “biennial”.

19 (d) **MANAGERIAL ACCOUNTABILITY AND FLEXI-**
20 **BILITY.**—Section 9703 of title 31, United States Code, re-
21 lating to managerial accountability, is amended—

22 (1) in subsection (a)—

23 (A) in the first sentence by striking “an-
24 nual”; and

1 (B) by striking “section 1105(a)(29)” and
2 inserting “section 1105(a)(28)”;

3 (2) in subsection (e)—

4 (A) in the first sentence by striking “one
5 or” before “years”;

6 (B) in the second sentence by striking “a
7 subsequent year” and inserting “a subsequent
8 2-year period”; and

9 (C) in the third sentence by striking
10 “three” and inserting “4”.

11 (e) PILOT PROJECTS FOR PERFORMANCE BUDG-
12 ETING.—Section 1119 of title 31, United States Code, is
13 amended—

14 (1) in paragraph (1) of subsection (d), by strik-
15 ing “annual” and inserting “biennial”; and

16 (2) in subsection (e), by striking “annual” and
17 inserting “biennial”.

18 (f) STRATEGIC PLANS.—Section 2802 of title 39,
19 United States Code, is amended—

20 (1) in subsection (a), by striking “September
21 30, 1997” and inserting “September 30, 2011”;

22 (2) by striking “five years forward” and insert-
23 ing “6 years forward”;

1 (3) in subsection (b), by striking “at least every
2 three years” and inserting “at least every 4 years”;
3 and

4 (4) in subsection (c), by inserting a comma
5 after “section” the second place it appears and in-
6 serting “including a strategic plan submitted by
7 September 30, 2011 meeting the requirements of
8 subsection (a)”.

9 (g) PERFORMANCE PLANS.—Section 2803(a) of title
10 39, United States Code, is amended—

11 (1) in the matter before paragraph (1), by
12 striking “an annual” and inserting “a biennial”;

13 (2) in paragraph (1), by inserting after “pro-
14 gram activity” the following: “for both years 1 and
15 2 of the biennial plan”;

16 (3) in paragraph (5), by striking “and” after
17 the semicolon;

18 (4) in paragraph (6), by striking the period and
19 inserting “; and”; and

20 (5) by adding after paragraph (6) the following:

21 “(7) cover a 2-year period beginning with the
22 first fiscal year of the next biennial budget cycle.”.

23 (h) COMMITTEE VIEWS OF PLANS AND REPORTS.—
24 Section 301(d) of the Congressional Budget Act (2 U.S.C.
25 632(d)) is amended by adding at the end “Each committee

1 of the Senate or the House of Representatives shall review
2 the strategic plans, performance plans, and performance
3 reports, required under section 306 of title 5, United
4 States Code, and sections 1115 and 1116 of title 31,
5 United States Code, of all agencies under the jurisdiction
6 of the committee. Each committee may provide its views
7 on such plans or reports to the Committee on the Budget
8 of the applicable House.”.

9 (i) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall take effect on March 1, 2011.

12 (2) AGENCY ACTIONS.—Effective on and after
13 the date of enactment of this Act, each agency shall
14 take such actions as necessary to prepare and sub-
15 mit any plan or report in accordance with the
16 amendments made by this Act.

17 **SEC. 1408. BIENNIAL APPROPRIATIONS BILLS.**

18 (a) IN GENERAL.—Title III of the Congressional
19 Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended
20 by adding at the end the following:

21 “CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

22 “SEC. 317. It shall not be in order in the House of
23 Representatives or the Senate in any odd-numbered year
24 to consider any regular bill providing new budget authority
25 or a limitation on obligations under the jurisdiction of any
26 of the subcommittees of the Committees on Appropria-

1 tions for only the first fiscal year of a biennium, unless
 2 the program, project, or activity for which the new budget
 3 authority or obligation limitation is provided will require
 4 no additional authority beyond 1 year and will be com-
 5 pleted or terminated after the amount provided has been
 6 expended.”.

7 (b) AMENDMENT TO TABLE OF CONTENTS.—The
 8 table of contents set forth in section 1(b) of the Congres-
 9 sional Budget and Impoundment Control Act of 1974 is
 10 amended by adding after the item relating to section 316
 11 the following new item:

“Sec. 317. Consideration of biennial appropriations bills.”.

12 **SEC. 1409. REPORT ON TWO-YEAR FISCAL PERIOD.**

13 Not later than 180 days after the date of enactment
 14 of this Act, the Director of OMB shall—

15 (1) determine the impact and feasibility of
 16 changing the definition of a fiscal year and the
 17 budget process based on that definition to a 2-year
 18 fiscal period with a biennial budget process based on
 19 the 2-year period; and

20 (2) report the findings of the study to the Com-
 21 mittees on the Budget of the House of Representa-
 22 tives and the Senate.

23 **SEC. 1410. EFFECTIVE DATE.**

24 Except as provided in section 1407, this subtitle and
 25 the amendments made by this subtitle shall take effect on

1 January 1, 2011, and shall apply to budget resolutions
2 and appropriations for the biennium beginning with fiscal
3 year 2012.

4 **TITLE II—MAKING CONGRESS**
5 **TIGHTEN ITS BELT**

6 **SEC. 2001. ENDING AUTOMATIC PAY RAISES FOR MEMBERS**
7 **OF CONGRESS.**

8 (a) IN GENERAL.—Paragraph (2) of section 601(a)
9 of the Legislative Reorganization Act of 1946 (2 U.S.C.
10 31) is repealed.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
12 Section 601(a)(1) of such Act is amended—

- 13 (1) by striking “(a)(1)” and inserting “(a)”;
- 14 (2) by redesignating subparagraphs (A), (B),
15 and (C) as paragraphs (1), (2), and (3), respectively;
16 and
- 17 (3) by striking “as adjusted by paragraph (2)
18 of this subsection” and inserting “adjusted as pro-
19 vided by law”.

20 **SEC. 2002. CUTTING SPENDING ON CONGRESSIONAL OF-**
21 **FICES.**

22 (a) SENATORS’ OFFICIAL PERSONNEL AND OFFICE
23 EXPENSE ACCOUNT.—Of the amounts appropriated under
24 the heading “SENATORS’ OFFICIAL PERSONNEL AND OF-
25 FICE EXPENSE ACCOUNT” under the heading “CONTIN-

1 GENT EXPENSES OF THE SENATE” under title I of the
 2 Legislative Branch Appropriations Act, 2010,
 3 \$21,100,000 are rescinded.

4 (b) MEMBERS’ CLERK HIRE, OFFICIAL EXPENSES
 5 OF MEMBERS, AND OFFICIAL MAIL.—Of the amounts ap-
 6 propriated under the heading “INCLUDING MEMBERS’
 7 CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OF-
 8 FICIAL MAIL” under the heading “MEMBERS’ REPRESEN-
 9 TATIONAL ALLOWANCES” under title I of the Legislative
 10 Branch Appropriations Act, 2010, \$33,000,000 are re-
 11 scinded.

12 **SEC. 2003. IMPROVING SENATE EFFICIENCY AND TRANS-**
 13 **PARENCY.**

14 Section 302(g) of the Federal Election Campaign Act
 15 of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

16 “(g) FILING WITH THE COMMISSION.—All des-
 17 ignations, statements, and reports required to be
 18 filed under this Act shall be filed with the Commis-
 19 sion.”.

20 **TITLE III—ENDING CORPORATE**
 21 **WELFARE**

22 **SEC. 3001. ENDING THE WALL STREET BAIL-OUT.**

23 Notwithstanding paragraph (3) of section 115(a) of
 24 the Emergency Economic Stabilization Act of 2008 (12
 25 U.S.C. 5225(a)(3)), no amount may be obligated by the

1 Secretary of the Treasury under that paragraph (3), or
2 any other provision of the Emergency Economic Stabiliza-
3 tion Act of 2008, on or after the date of enactment of
4 this Act.

5 **SEC. 3002. ENDING SUBSIDIES FOR PRIVATE STUDENT**
6 **LOAN COMPANIES.**

7 (a) **SHORT TITLE.**—This section may be cited as the
8 “Student Loan Reform Act”.

9 (b) **REFERENCES.**—Except as otherwise expressly
10 provided, whenever in this section an amendment or repeal
11 is expressed in terms of an amendment to, or repeal of,
12 a section or other provision, the reference shall be consid-
13 ered to be made to a section or other provision of the
14 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

15 (c) **FEDERAL FAMILY EDUCATION LOAN APPROPRIA-**
16 **TIONS.**—Section 421 (20 U.S.C. 1071) is amended—

17 (1) in subsection (b), in the matter following
18 paragraph (6), by inserting “, except that no sums
19 may be expended after June 30, 2010, with respect
20 to loans under this part for which the first disburse-
21 ment would be made after such date” after “ex-
22 pended”; and

23 (2) by adding at the end the following new sub-
24 section:

1 “(d) TERMINATION OF AUTHORITY TO MAKE OR IN-
2 SURE NEW LOANS.—Notwithstanding paragraphs (1)
3 through (6) of subsection (b) or any other provision of
4 law—

5 “(1) no new loans (including consolidation
6 loans) may be made or insured under this part after
7 June 30, 2010; and

8 “(2) no funds are authorized to be appro-
9 priated, or may be expended, under this Act or any
10 other Act to make or insure loans under this part
11 (including consolidation loans) for which the first
12 disbursement would be made after June 30, 2010,
13 except as expressly authorized by an Act of Congress en-
14 acted after the date of enactment of the Student Loan
15 Reform Act.”.

16 (d) SCOPE AND DURATION OF FEDERAL LOAN IN-
17 SURANCE PROGRAM.—Section 424(a) (20 U.S.C. 1074(a))
18 is amended by striking “September 30, 1976,” and all
19 that follows and inserting “September 30, 1976, for each
20 of the succeeding fiscal years ending prior to October 1,
21 2009, and for the period from October 1, 2009, to June
22 30, 2010, for loans first disbursed on or before June 30,
23 2010.”.

24 (e) APPLICABLE INTEREST RATES.—Section 427A(l)
25 (20 U.S.C. 1077a(l)) is amended—

1 (1) in paragraph (1), by inserting “and before
2 July 1, 2010,” after “July 1, 2006,”;

3 (2) in paragraph (2), by inserting “and before
4 July 1, 2010,” after “July 1, 2006,”;

5 (3) in paragraph (3), by inserting “and that
6 was disbursed before July 1, 2010,” after “July 1,
7 2006,”; and

8 (4) in paragraph (4)—

9 (A) in the matter preceding subparagraph
10 (A), by striking “July 1, 2012” and inserting
11 “July 1, 2010”; and

12 (B) by repealing subparagraphs (D) and
13 (E).

14 (f) FEDERAL PAYMENTS TO REDUCE STUDENT IN-
15 TEREST COSTS.—

16 (1) HIGHER EDUCATION ACT OF 1965.—Section
17 428 (20 U.S.C. 1078) is amended—

18 (A) in subsection (a)—

19 (i) in paragraph (1), in the matter
20 preceding subparagraph (A), by inserting
21 “for which the first disbursement is made
22 before July 1, 2010, and” after “eligible
23 institution”; and

24 (ii) in paragraph (5), by striking
25 “September 30, 2014,” and all that follows

1 through the period and inserting “June
2 30, 2010.”;

3 (B) in subsection (b)(1)—

4 (i) in subparagraph (G)(ii), by insert-
5 ing “and before July 1, 2010,” after “July
6 1, 2006,”; and

7 (ii) in subparagraph (H)(ii), by insert-
8 ing “and that are first disbursed before
9 July 1, 2010,” after “July 1, 2006,”;

10 (C) in subsection (f)(1)(A)(ii)—

11 (i) by striking “during fiscal years be-
12 ginning”; and

13 (ii) by inserting “and first disbursed
14 before July 1, 2010,” after “October 1,
15 2003,”; and

16 (D) in subsection (j)(1), by inserting “, be-
17 fore July 1, 2010,” after “section 435(d)(1)(D)
18 of this Act shall”.

19 (2) COLLEGE COST REDUCTION AND ACCESS
20 ACT.—Section 303 of the College Cost Reduction
21 and Access Act (Public Law 110–84) is repealed.

22 (g) FEDERAL PLUS LOANS.—Section 428B(a)(1)
23 (20 U.S.C. 1078–2(a)(1)) is amended by striking “A grad-
24 uate” and inserting “Prior to July 1, 2010, a graduate”.

25 (h) FEDERAL CONSOLIDATION LOAN.—

1 (1) AMENDMENTS.—Section 428C (20 U.S.C.
2 1078–3) is amended—

3 (A) in subsection (a)(4)(A), by inserting “,
4 and first disbursed before July 1, 2010” after
5 “under this part”;

6 (B) in subsection (b)—

7 (i) in paragraph (1)(E), by inserting
8 before the semicolon “, and before July 1,
9 2010”; and

10 (ii) in paragraph (5), by striking “In
11 the event that” and inserting “If, before
12 July 1, 2010,”;

13 (C) in subsection (c)(1)—

14 (i) in subparagraph (A)(ii), by insert-
15 ing “and that is disbursed before July 1,
16 2010,” after “2006,”; and

17 (ii) in subparagraph (C), by inserting
18 “and first disbursed before July 1, 2010,”
19 after “1994,”; and

20 (D) in subsection (e), by striking “Sep-
21 tember 30, 2014.” and inserting “June 30,
22 2010. No loan may be made under this section
23 for which the first disbursement would be on or
24 after July 1, 2010.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1)(A) shall be effective at the close of
3 June 30, 2010.

4 (i) UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-
5 INCOME BORROWERS.—Section 428H (20 U.S.C. 1078–
6 8) is amended—

7 (1) in subsection (a), by inserting “that are
8 first disbursed before July 1, 2010,” after “under
9 this part”;

10 (2) in subsection (b)—

11 (A) by striking “Any student” and insert-
12 ing “Prior to July 1, 2010, any student”; and

13 (B) by inserting “for which the first dis-
14 bursement is made before such date” after “un-
15 subsidized Federal Stafford Loan”; and

16 (3) in subsection (h), by inserting “and that are
17 first disbursed before July 1, 2010,” after “July 1,
18 2006,”.

19 (j) LOAN REPAYMENT FOR CIVIL LEGAL ASSISTANCE
20 ATTORNEYS.—Section 428L(b)(2)(A) (20 U.S.C. 1078–
21 12(b)(2)(A)) is amended—

22 (1) by amending clause (i) to read as follows:

23 “(i) subject to clause (ii)—

24 “(I) a loan made, insured, or
25 guaranteed under this part, and that

1 is first disbursed before July 1, 2010;

2 or

3 “(II) a loan made under part D

4 or part E; and”; and

5 (2) in clause (ii)—

6 (A) by striking “428C or 455(g)” and in-

7 serting “428C that is disbursed before July 1,

8 2010, or section 455(g)”;

9 (B) in subclause (II), by inserting “for

10 which the first disbursement is made before

11 July 1, 2010” after “or 428H”.

12 (k) SPECIAL ALLOWANCES.—Section 438 (20 U.S.C.

13 1087–1) is amended—

14 (1) in subsection (b)(2)(I)—

15 (A) in the header, by inserting “, AND BE-

16 FORE JULY 1, 2010” after “2000”;

17 (B) in clause (i), by inserting “and before

18 July 1, 2010,” after “2000,”;

19 (C) in clause (ii)(II), by inserting “and be-

20 fore July 1, 2010,” after “2006,”;

21 (D) in clause (iii), by inserting “and before

22 July 1, 2010,” after “2000,”;

23 (E) in clause (iv), by inserting “and that

24 is disbursed before July 1, 2010,” after

25 “2000,”;

1 (F) in clause (v)(I), by inserting “and be-
2 fore July 1, 2010,” after “2006,”; and

3 (G) in clause (vi)—

4 (i) in the header, by inserting “, AND
5 BEFORE JULY 1, 2010” after “2007”; and

6 (ii) in the matter preceding subclause
7 (I), by inserting “and before July 1,
8 2010,” after “2007,”;

9 (2) in subsection (c)—

10 (A) in paragraph (2)(B)—

11 (i) in clause (iii), by inserting “and”
12 after the semicolon;

13 (ii) in clause (iv), by striking “; and”
14 and inserting a period; and

15 (iii) by striking clause (v); and

16 (B) in paragraph (6), by inserting “and
17 first disbursed before July 1, 2010,” after
18 “1992,”; and

19 (3) in subsection (d)(2)(B), by inserting “, and
20 before July 1, 2010” after “2007”.

21 (I) REVISED SPECIAL ALLOWANCE CALCULATION.—

22 (1) REVISED CALCULATION RULE.—Section
23 438(b)(2)(I) of the Higher Education Act of 1965
24 (20 U.S.C. 1087–1(b)(2)(I)) is amended by adding
25 at the end the following new clause:

1 “(vii) REVISED CALCULATION RULE
2 TO REFLECT FINANCIAL MARKET CONDI-
3 TIONS.—

4 “(I) CALCULATION BASED ON
5 LIBOR.—For the calendar quarter be-
6 ginning on October 1, 2009, and each
7 subsequent calendar quarter, in com-
8 puting the special allowance paid pur-
9 suant to this subsection with respect
10 to loans described in subclause (II),
11 clause (i)(I) of this subparagraph
12 shall be applied by substituting ‘of the
13 1-month London Inter Bank Offered
14 Rate (LIBOR) for United States dol-
15 lars in effect for each of the days in
16 such quarter as compiled and released
17 by the British Bankers Association’
18 for ‘of the quotes of the 3-month com-
19 mercial paper (financial) rates in ef-
20 fect for each of the days in such quar-
21 ter as reported by the Federal Reserve
22 in Publication H–15 (or its successor)
23 for such 3-month period’.

24 “(II) LOANS ELIGIBLE FOR
25 LIBOR-BASED CALCULATION.—The

1 special allowance paid pursuant to
2 this subsection shall be calculated as
3 described in subclause (I) with respect
4 to special allowance payments for the
5 3-month period ending December 31,
6 2009, and each succeeding 3-month
7 period, on loans for which the first
8 disbursement is made—

9 “(aa) on or after the date of
10 enactment of the Student Loan
11 Reform Act, and before July 1,
12 2010; or

13 “(bb) on or after January 1,
14 2000, and before the date of en-
15 actment of the Student Loan Re-
16 form Act, if, not later than the
17 last day of the second full fiscal
18 quarter after the date of enact-
19 ment of such Act, the holder of
20 the loan (or, if the holder acts as
21 eligible lender trustee for the
22 beneficial owner of the loan, the
23 beneficial owner of the loan), af-
24 firmatively and permanently
25 waives all contractual, statutory

1 or other legal rights to a special
2 allowance paid pursuant to this
3 subsection that is calculated
4 using the formula in effect at the
5 time the loans were first dis-
6 bursed.

7 “(III) TERMS OF WAIVER.—

8 “(aa) IN GENERAL.—A
9 waiver pursuant to subclause
10 (II)(bb) shall be in a form (print-
11 ed or electronic) prescribed by
12 the Secretary, and shall be appli-
13 cable to—

14 “(AA) all loans de-
15 scribed in such subclause
16 that the lender holds solely
17 in its own right under any
18 lender identification number
19 associated with the holder
20 (pursuant to section 487B);

21 “(BB) all loans de-
22 scribed in such subclause for
23 which the beneficial owner
24 has the authority to make
25 an election of a waiver under

1 such subclause, regardless of
2 the lender identification
3 number associated with the
4 loan or the lender that holds
5 the loan as eligible lender
6 trustee on behalf of such
7 beneficial owner; and

8 “(CC) all future cal-
9 culations of the special al-
10 lowance on loans that, on
11 the date of such waiver, are
12 loans described in subitem
13 (AA) or (BB), or that, after
14 such date, become loans de-
15 scribed in subitem (AA) or
16 (BB).

17 “(bb) EXCEPTIONS.—Any
18 waiver pursuant to subclause
19 (II)(bb) that is elected for loans
20 described in subitem (AA) or
21 (BB) of item (aa) shall not apply
22 to any loan described in such
23 subitem for which the lender or
24 beneficial owner of the loan dem-

1 onstrates to the satisfaction of
2 the Secretary that—

3 “(AA) in accordance
4 with an agreement entered
5 into before the date of en-
6 actment of the Student
7 Loan Reform Act by which
8 such lender or owner is gov-
9 erned and that applies to
10 such loans, such lender or
11 owner is not legally per-
12 mitted to make an election
13 of such waiver with respect
14 to such loans without the
15 approval of one or more
16 third parties with an inter-
17 est in the loans, and that
18 the lender or owner followed
19 all available options under
20 such agreement to obtain
21 such approval, and was un-
22 able to do so; or

23 “(BB) such lender or
24 beneficial owner presented
25 the proposal of electing such

1 a waiver applicable to such
2 loans associated with an ob-
3 ligation rated by a nationally
4 recognized statistical rating
5 organization (as defined in
6 section 3(a)(62) of the Secu-
7 rities Exchange Act of
8 1934), and such rating orga-
9 nization provided a written
10 opinion that the agency
11 would downgrade the rating
12 applicable to such obligation
13 if the lender or owner elect-
14 ed such a waiver.

15 “(IV) PARTICIPANT’S YIELD.—
16 For the calendar quarter beginning on
17 October 1, 2009, and each subsequent
18 calendar quarter, the Secretary’s par-
19 ticipant yield in any loan in which the
20 Secretary has purchased a participa-
21 tion interest and for which the first
22 disbursement is made on or after Jan-
23 uary 1, 2000, and before October 1,
24 2009, shall be determined by using
25 the LIBOR-based rate described in

1 subclause (I) as the substitute rate
 2 (for the commercial paper rate) re-
 3 ferred to in the participation agree-
 4 ment between the Secretary and such
 5 lender.”.

6 (2) CONFORMING AMENDMENT.—Section
 7 438(b)(2)(I) (20 U.S.C. 1087–1(b)(2)(I)) is further
 8 amended—

9 (A) in clause (i)(II), by striking “such av-
 10 erage bond equivalent rate” and inserting “the
 11 rate determined under subclause (I)”; and

12 (B) in clause (v)(III) by striking “(iv), and
 13 (vi)” and inserting “(iv), (vi), and (vii)”.

14 (m) ORIGINATION OF DIRECT LOANS AT INSTITU-
 15 TIONS LOCATED OUTSIDE THE UNITED STATES.—

16 (1) LOANS FOR STUDENTS ATTENDING INSTI-
 17 TUTIONS LOCATED OUTSIDE THE UNITED STATES.—

18 Section 452 (20 U.S.C. 1087b) is amended by add-
 19 ing at the end the following:

20 “(d) INSTITUTIONS LOCATED OUTSIDE THE UNITED
 21 STATES.—Loan funds for students (and parents of stu-
 22 dents) attending institutions located outside the United
 23 States shall be disbursed through a financial institution
 24 located in the United States and designated by the Sec-
 25 retary to serve as the agent of such institutions with re-

1 spect to the receipt of the disbursements of such loan
 2 funds and the transfer of such funds to such institutions.
 3 To be eligible to receive funds under this part, an other-
 4 wise eligible institution located outside the United States
 5 shall make arrangements, subject to regulations by the
 6 Secretary, with the agent designated by the Secretary
 7 under this subsection to receive funds under this part.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) AMENDMENTS.—Section 102 (20
 10 U.S.C. 1002), as amended by section 102 of the
 11 Higher Education Opportunity Act (Public Law
 12 110–315) and section 101 of Public Law 111–
 13 39, is amended—

14 (i) by striking “part B” each place it
 15 appears and inserting “part D”;

16 (ii) in subsection (a)(1)(C), by insert-
 17 ing “, consistent with the requirements of
 18 section 452(d)” before the period at the
 19 end; and

20 (iii) in subsection (a)(2)(A)—

21 (I) in the matter preceding clause
 22 (i), by striking “made, insured, or
 23 guaranteed” and inserting “made”;
 24 and

25 (II) in clause (iii)—

1 (aa) in subclause (III), by
2 striking “only Federal Stafford”
3 and all that follows through “sec-
4 tion 428B” and inserting “only
5 Federal Direct Stafford Loans
6 under section 455(a)(2)(A), Fed-
7 eral Direct Unsubsidized Stafford
8 Loans under section
9 455(a)(2)(D), or Federal Direct
10 PLUS Loans under section
11 455(a)(2)(B)”;

12 (bb) in subclause (V), by
13 striking “a Federal Stafford”
14 and all that follows through “sec-
15 tion 428B” and inserting “a
16 Federal Direct Stafford Loan
17 under section 455(a)(2)(A), a
18 Federal Direct Unsubsidized
19 Stafford Loan under section
20 455(a)(2)(D), or a Federal Di-
21 rect PLUS Loan under section
22 455(a)(2)(B)”.

23 (B) EFFECTIVE DATE.—The amendments
24 made by subparagraph (A)(iii) shall be effective
25 as if enacted as part of section 102(a)(1) of the

1 Higher Education Opportunity Act, in accord-
2 ance with section 102(e) of such Act, as amend-
3 ed by section 101(a)(2) of Public Law 111–39.

4 (n) AGREEMENTS WITH INSTITUTIONS.—Section
5 454 (20 U.S.C. 1087d) is amended—

6 (1) in subsection (a), by striking paragraph (4)
7 and redesignating the succeeding paragraphs accord-
8 ingly; and

9 (2) in subsection (b)(2), by striking “(5), (6),
10 and (7)” and inserting “(5), and (6)”.

11 (o) TERMS AND CONDITIONS OF LOANS.—

12 (1) AMENDMENTS.—Section 455 (20 U.S.C.
13 1087e) is amended—

14 (A) in subsection (a)(1), by inserting “,
15 and first disbursed on June 30, 2010,” before
16 “under sections 428”; and

17 (B) in subsection (g)—

18 (i) by inserting “, including any loan
19 made under part B and first disbursed be-
20 fore July 1, 2010” after “section
21 428C(a)(4)”; and

22 (ii) by striking the third sentence.

23 (2) EFFECTIVE DATE.—The amendment made
24 by subsection (a)(1) shall apply with respect to loans
25 first disbursed under part D of title IV of the High-

1 er Education Act of 1965 (20 U.S.C. 1087a et seq.)
2 on or after July 1, 2010.

3 (p) TECHNICAL ASSISTANCE TO INSTITUTIONS OF
4 HIGHER EDUCATION.—Section 458(a) (20 U.S.C.
5 1087h(a)) is amended—

6 (1) by redesignating paragraph (5) as para-
7 graph (6); and

8 (2) by inserting after paragraph (4) the fol-
9 lowing new paragraph:

10 “(5) TECHNICAL ASSISTANCE TO INSTITUTIONS
11 OF HIGHER EDUCATION.—

12 “(A) PROVISION OF ASSISTANCE.—The
13 Secretary shall provide institutions of higher
14 education participating, or seeking to partici-
15 pate, in the loan programs under this part with
16 technical assistance in establishing and admin-
17 istering such programs, including assistance for
18 an institution of higher education during such
19 institution’s transition into such programs.
20 Such assistance may include technical support,
21 training for personnel, customized assistance to
22 individual institutions of higher education, de-
23 velopment of informational materials, and other
24 services the Secretary determines to be appro-
25 priate.

1 “(B) FUNDS.—There are authorized to be
2 appropriated, and there are appropriated, to
3 carry out this paragraph (in addition to any
4 other amounts appropriated to carry out this
5 subparagraph and out of any money in the
6 Treasury not otherwise appropriated),
7 \$50,000,000 for fiscal year 2010.”.

8 (q) OUTREACH EFFORTS.—

9 (1) OUTREACH ACTIVITIES REQUIRED.—The
10 Secretary of Education shall conduct outreach activi-
11 ties in accordance with this section to inform and
12 educate students and their families about the transi-
13 tion to Federal Direct lending under the amend-
14 ments made by this section to title IV of the Higher
15 Education Act of 1965.

16 (2) REQUIRED COMPONENTS OF OUTREACH.—
17 The Secretary shall provide for the broad dissemina-
18 tion of information on such amendments and shall—

19 (A) operate and maintain an Internet
20 website through which individuals may obtain
21 information on changes made to the Federal
22 Family Education Loan programs and the Fed-
23 eral Direct Loan programs;

1 (B) develop and disseminate information to
2 high school seniors and their parents con-
3 cerning student loans and student aid;

4 (C) provide assistance to institutions of
5 higher education to educate students on the re-
6 payment of Federal Direct loans; and

7 (D) ensure that all outreach efforts are de-
8 veloped using plain language and are culturally-
9 and language-appropriate.

10 (3) USE OF OTHER ENTITIES.—In carrying out
11 this subsection, the Secretary may work with other
12 appropriate entities to facilitate the dissemination of
13 information under this section and to provide assist-
14 ance as described in this section.

15 **SEC. 3003. BRINGING DOWN PRICES FOR PRESCRIPTION**
16 **DRUGS BY PERMITTING DRUG REIMPORTA-**
17 **TION.**

18 (a) SHORT TITLE.—This section may be cited as the
19 “Pharmaceutical Market Access and Drug Safety Act of
20 2009”.

21 (b) FINDINGS.—Congress finds that—

22 (1) Americans unjustly pay up to 5 times more
23 to fill their prescriptions than consumers in other
24 countries;

1 (2) the United States is the largest market for
2 pharmaceuticals in the world, yet American con-
3 sumers pay the highest prices for brand pharma-
4 ceuticals in the world;

5 (3) a prescription drug is neither safe nor effec-
6 tive to an individual who cannot afford it;

7 (4) allowing and structuring the importation of
8 prescription drugs to ensure access to safe and af-
9 fordable drugs approved by the Food and Drug Ad-
10 ministration will provide a level of safety to Amer-
11 ican consumers that they do not currently enjoy;

12 (5) American spend more than
13 \$200,000,000,000 on prescription drugs every year;

14 (6) the Congressional Budget Office has found
15 that the cost of prescription drugs are between 35
16 to 55 percent less in other highly developed coun-
17 tries than in the United States; and

18 (7) promoting competitive market pricing would
19 both contribute to health care savings and allow
20 greater access to therapy, improving health and sav-
21 ing lives.

22 (c) REPEAL OF CERTAIN SECTION REGARDING IM-
23 PORTATION OF PRESCRIPTION DRUGS.—Chapter VIII of
24 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381
25 et seq.) is amended by striking section 804.

1 (d) IMPORTATION OF PRESCRIPTION DRUGS; WAIV-
2 ER OF CERTAIN IMPORT RESTRICTIONS.—

3 (1) IN GENERAL.—Chapter VIII of the Federal
4 Food, Drug, and Cosmetic Act (21 U.S.C. 381 et
5 seq.), as amended by section 3, is further amended
6 by inserting after section 803 the following:

7 **“SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF**
8 **PRESCRIPTION DRUGS.**

9 “(a) IMPORTATION OF PRESCRIPTION DRUGS.—

10 “(1) IN GENERAL.—In the case of qualifying
11 drugs imported or offered for import into the United
12 States from registered exporters or by registered im-
13 porters—

14 “(A) the limitation on importation that is
15 established in section 801(d)(1) is waived; and

16 “(B) the standards referred to in section
17 801(a) regarding admission of the drugs are
18 subject to subsection (g) of this section (includ-
19 ing with respect to qualifying drugs to which
20 section 801(d)(1) does not apply).

21 “(2) IMPORTERS.—A qualifying drug may not
22 be imported under paragraph (1) unless—

23 “(A) the drug is imported by a pharmacy,
24 group of pharmacies, or a wholesaler that is a
25 registered importer; or

1 “(B) the drug is imported by an individual
2 for personal use or for the use of a family mem-
3 ber of the individual (not for resale) from a reg-
4 istered exporter.

5 “(3) RULE OF CONSTRUCTION.—This section
6 shall apply only with respect to a drug that is im-
7 ported or offered for import into the United
8 States—

9 “(A) by a registered importer; or

10 “(B) from a registered exporter to an indi-
11 vidual.

12 “(4) DEFINITIONS.—

13 “(A) REGISTERED EXPORTER; REG-
14 ISTERED IMPORTER.—For purposes of this sec-
15 tion:

16 “(i) The term ‘registered exporter’
17 means an exporter for which a registration
18 under subsection (b) has been approved
19 and is in effect.

20 “(ii) The term ‘registered importer’
21 means a pharmacy, group of pharmacies,
22 or a wholesaler for which a registration
23 under subsection (b) has been approved
24 and is in effect.

1 “(iii) The term ‘registration condition’
2 means a condition that must exist for a
3 registration under subsection (b) to be ap-
4 proved.

5 “(B) QUALIFYING DRUG.—For purposes of
6 this section, the term ‘qualifying drug’ means a
7 drug for which there is a corresponding U.S.
8 label drug.

9 “(C) U.S. LABEL DRUG.—For purposes of
10 this section, the term ‘U.S. label drug’ means
11 a prescription drug that—

12 “(i) with respect to a qualifying drug,
13 has the same active ingredient or ingredi-
14 ents, route of administration, dosage form,
15 and strength as the qualifying drug;

16 “(ii) with respect to the qualifying
17 drug, is manufactured by or for the person
18 that manufactures the qualifying drug;

19 “(iii) is approved under section
20 505(e); and

21 “(iv) is not—

22 “(I) a controlled substance, as
23 defined in section 102 of the Con-
24 trolled Substances Act (21 U.S.C.
25 802);

1 “(II) a biological product, as de-
2 fined in section 351 of the Public
3 Health Service Act (42 U.S.C. 262),
4 including—

5 “(aa) a therapeutic DNA
6 plasmid product;

7 “(bb) a therapeutic synthetic
8 peptide product;

9 “(cc) a monoclonal antibody
10 product for in vivo use; and

11 “(dd) a therapeutic recom-
12 binant DNA-derived product;

13 “(III) an infused drug, including
14 a peritoneal dialysis solution;

15 “(IV) an injected drug;

16 “(V) a drug that is inhaled dur-
17 ing surgery;

18 “(VI) a drug that is the listed
19 drug referred to in 2 or more abbrevi-
20 ated new drug applications under
21 which the drug is commercially mar-
22 keted; or

23 “(VII) a sterile ophthalmic drug
24 intended for topical use on or in the
25 eye.

1 “(D) OTHER DEFINITIONS.—For purposes
2 of this section:

3 “(i)(I) The term ‘exporter’ means a
4 person that is in the business of exporting
5 a drug to individuals in the United States
6 from Canada or from a permitted country
7 designated by the Secretary under sub-
8 clause (II), or that, pursuant to submitting
9 a registration under subsection (b), seeks
10 to be in such business.

11 “(II) The Secretary shall designate a
12 permitted country under subparagraph (E)
13 (other than Canada) as a country from
14 which an exporter may export a drug to in-
15 dividuals in the United States if the Sec-
16 retary determines that—

17 “(aa) the country has statutory
18 or regulatory standards that are
19 equivalent to the standards in the
20 United States and Canada with re-
21 spect to—

22 “(AA) the training of phar-
23 macists;

24 “(BB) the practice of phar-
25 macy; and

1 “(CC) the protection of the
2 privacy of personal medical infor-
3 mation; and

4 “(bb) the importation of drugs to
5 individuals in the United States from
6 the country will not adversely affect
7 public health.

8 “(ii) The term ‘importer’ means a
9 pharmacy, a group of pharmacies, or a
10 wholesaler that is in the business of im-
11 porting a drug into the United States or
12 that, pursuant to submitting a registration
13 under subsection (b), seeks to be in such
14 business.

15 “(iii) The term ‘pharmacist’ means a
16 person licensed by a State to practice
17 pharmacy, including the dispensing and
18 selling of prescription drugs.

19 “(iv) The term ‘pharmacy’ means a
20 person that—

21 “(I) is licensed by a State to en-
22 gage in the business of selling pre-
23 scription drugs at retail; and

24 “(II) employs 1 or more phar-
25 macists.

1 “(v) The term ‘prescription drug’
2 means a drug that is described in section
3 503(b)(1).

4 “(vi) The term ‘wholesaler’—
5 “(I) means a person licensed as a
6 wholesaler or distributor of prescrip-
7 tion drugs in the United States under
8 section 503(e)(2)(A); and

9 “(II) does not include a person
10 authorized to import drugs under sec-
11 tion 801(d)(1).

12 “(E) PERMITTED COUNTRY.—The term
13 ‘permitted country’ means—

14 “(i) Australia;

15 “(ii) Canada;

16 “(iii) a member country of the Euro-
17 pean Union, but does not include a mem-
18 ber country with respect to which—

19 “(I) the country’s Annex to the
20 Treaty of Accession to the European
21 Union 2003 includes a transitional
22 measure for the regulation of human
23 pharmaceutical products that has not
24 expired; or

1 “(II) the Secretary determines
2 that the requirements described in
3 subclauses (I) and (II) of clause (vii)
4 will not be met by the date on which
5 such transitional measure for the reg-
6 ulation of human pharmaceutical
7 products expires;

8 “(iv) Japan;

9 “(v) New Zealand;

10 “(vi) Switzerland; and

11 “(vii) a country in which the Sec-
12 retary determines the following require-
13 ments are met:

14 “(I) The country has statutory or
15 regulatory requirements—

16 “(aa) that require the review
17 of drugs for safety and effective-
18 ness by an entity of the govern-
19 ment of the country;

20 “(bb) that authorize the ap-
21 proval of only those drugs that
22 have been determined to be safe
23 and effective by experts employed
24 by or acting on behalf of such en-
25 tity and qualified by scientific

1 training and experience to evalu-
2 ate the safety and effectiveness of
3 drugs on the basis of adequate
4 and well-controlled investigations,
5 including clinical investigations,
6 conducted by experts qualified by
7 scientific training and experience
8 to evaluate the safety and effec-
9 tiveness of drugs;

10 “(cc) that require the meth-
11 ods used in, and the facilities and
12 controls used for the manufac-
13 ture, processing, and packing of
14 drugs in the country to be ade-
15 quate to preserve their identity,
16 quality, purity, and strength;

17 “(dd) for the reporting of
18 adverse reactions to drugs and
19 procedures to withdraw approval
20 and remove drugs found not to
21 be safe or effective; and

22 “(ee) that require the label-
23 ing and promotion of drugs to be
24 in accordance with the approval
25 of the drug.

1 “(II) The valid marketing au-
2 thorization system in the country is
3 equivalent to the systems in the coun-
4 tries described in clauses (i) through
5 (vi).

6 “(III) The importation of drugs
7 to the United States from the country
8 will not adversely affect public health.

9 “(b) REGISTRATION OF IMPORTERS AND EXPORT-
10 ERS.—

11 “(1) REGISTRATION OF IMPORTERS AND EX-
12 PORTERS.—A registration condition is that the im-
13 porter or exporter involved (referred to in this sub-
14 section as a ‘registrant’) submits to the Secretary a
15 registration containing the following:

16 “(A)(i) In the case of an exporter, the
17 name of the exporter and an identification of all
18 places of business of the exporter that relate to
19 qualifying drugs, including each warehouse or
20 other facility owned or controlled by, or oper-
21 ated for, the exporter.

22 “(ii) In the case of an importer, the name
23 of the importer and an identification of the
24 places of business of the importer at which the
25 importer initially receives a qualifying drug

1 after importation (which shall not exceed 3
2 places of business except by permission of the
3 Secretary).

4 “(B) Such information as the Secretary
5 determines to be necessary to demonstrate that
6 the registrant is in compliance with registration
7 conditions under—

8 “(i) in the case of an importer, sub-
9 sections (c), (d), (e), (g), and (j) (relating
10 to the sources of imported qualifying
11 drugs; the inspection of facilities of the im-
12 porter; the payment of fees; compliance
13 with the standards referred to in section
14 801(a); and maintenance of records and
15 samples); or

16 “(ii) in the case of an exporter, sub-
17 sections (c), (d), (f), (g), (h), (i), and (j)
18 (relating to the sources of exported quali-
19 fying drugs; the inspection of facilities of
20 the exporter and the marking of compliant
21 shipments; the payment of fees; and com-
22 pliance with the standards referred to in
23 section 801(a); being licensed as a phar-
24 macist; conditions for individual importa-

1 tion; and maintenance of records and sam-
2 ples).

3 “(C) An agreement by the registrant that
4 the registrant will not under subsection (a) im-
5 port or export any drug that is not a qualifying
6 drug.

7 “(D) An agreement by the registrant to—

8 “(i) notify the Secretary of a recall or
9 withdrawal of a qualifying drug distributed
10 in a permitted country that the registrant
11 has exported or imported, or intends to ex-
12 port or import, to the United States under
13 subsection (a);

14 “(ii) provide for the return to the reg-
15 istrant of such drug; and

16 “(iii) cease, or not begin, the expor-
17 tation or importation of such drug unless
18 the Secretary has notified the registrant
19 that exportation or importation of such
20 drug may proceed.

21 “(E) An agreement by the registrant to
22 ensure and monitor compliance with each reg-
23 istration condition, to promptly correct any
24 noncompliance with such a condition, and to

1 promptly report to the Secretary any such non-
2 compliance.

3 “(F) A plan describing the manner in
4 which the registrant will comply with the agree-
5 ment under subparagraph (E).

6 “(G) An agreement by the registrant to
7 enforce a contract under subsection (c)(3)(B)
8 against a party in the chain of custody of a
9 qualifying drug with respect to the authority of
10 the Secretary under clauses (ii) and (iii) of that
11 subsection.

12 “(H) An agreement by the registrant to
13 notify the Secretary not more than 30 days be-
14 fore the registrant intends to make the change,
15 of—

16 “(i) any change that the registrant in-
17 tends to make regarding information pro-
18 vided under subparagraph (A) or (B); and

19 “(ii) any change that the registrant
20 intends to make in the compliance plan
21 under subparagraph (F).

22 “(I) In the case of an exporter:

23 “(i) An agreement by the exporter
24 that a qualifying drug will not under sub-
25 section (a) be exported to any individual

1 not authorized pursuant to subsection
2 (a)(2)(B) to be an importer of such drug.

3 “(ii) An agreement to post a bond,
4 payable to the Treasury of the United
5 States that is equal in value to the lesser
6 of—

7 “(I) the value of drugs exported
8 by the exporter to the United States
9 in a typical 4-week period over the
10 course of a year under this section; or

11 “(II) \$1,000,000.

12 “(iii) An agreement by the exporter to
13 comply with applicable provisions of Cana-
14 dian law, or the law of the permitted coun-
15 try designated under subsection
16 (a)(4)(D)(i)(II) in which the exporter is lo-
17 cated, that protect the privacy of personal
18 information with respect to each individual
19 importing a prescription drug from the ex-
20 porter under subsection (a)(2)(B).

21 “(iv) An agreement by the exporter to
22 report to the Secretary—

23 “(I) not later than August 1 of
24 each fiscal year, the total price and
25 the total volume of drugs exported to

1 the United States by the exporter dur-
2 ing the 6-month period from January
3 1 through June 30 of that year; and

4 “(II) not later than January 1 of
5 each fiscal year, the total price and
6 the total volume of drugs exported to
7 the United States by the exporter dur-
8 ing the previous fiscal year.

9 “(J) In the case of an importer, an agree-
10 ment by the importer to report to the Sec-
11 retary—

12 “(i) not later than August 1 of each
13 fiscal year, the total price and the total
14 volume of drugs imported to the United
15 States by the importer during the 6-month
16 period from January 1 through June 30 of
17 that fiscal year; and

18 “(ii) not later than January 1 of each
19 fiscal year, the total price and the total
20 volume of drugs imported to the United
21 States by the importer during the previous
22 fiscal year.

23 “(K) Such other provisions as the Sec-
24 retary may require by regulation to protect the
25 public health while permitting—

1 “(i) the importation by pharmacies,
2 groups of pharmacies, and wholesalers as
3 registered importers of qualifying drugs
4 under subsection (a); and

5 “(ii) importation by individuals of
6 qualifying drugs under subsection (a).

7 “(2) APPROVAL OR DISAPPROVAL OF REGISTRA-
8 TION.—

9 “(A) IN GENERAL.—Not later than 90
10 days after the date on which a registrant sub-
11 mits to the Secretary a registration under para-
12 graph (1), the Secretary shall notify the reg-
13 istrant whether the registration is approved or
14 is disapproved. The Secretary shall disapprove
15 a registration if there is reason to believe that
16 the registrant is not in compliance with one or
17 more registration conditions, and shall notify
18 the registrant of such reason. In the case of a
19 disapproved registration, the Secretary shall
20 subsequently notify the registrant that the reg-
21 istration is approved if the Secretary deter-
22 mines that the registrant is in compliance with
23 such conditions.

24 “(B) CHANGES IN REGISTRATION INFOR-
25 MATION.—Not later than 30 days after receiv-

1 ing a notice under paragraph (1)(H) from a
2 registrant, the Secretary shall determine wheth-
3 er the change involved affects the approval of
4 the registration of the registrant under para-
5 graph (1), and shall inform the registrant of
6 the determination.

7 “(3) PUBLICATION OF CONTACT INFORMATION
8 FOR REGISTERED EXPORTERS.—Through the Inter-
9 net website of the Food and Drug Administration
10 and a toll-free telephone number, the Secretary shall
11 make readily available to the public a list of reg-
12 istered exporters, including contact information for
13 the exporters. Promptly after the approval of a reg-
14 istration submitted under paragraph (1), the Sec-
15 retary shall update the Internet website and the in-
16 formation provided through the toll-free telephone
17 number accordingly.

18 “(4) SUSPENSION AND TERMINATION.—

19 “(A) SUSPENSION.—With respect to the
20 effectiveness of a registration submitted under
21 paragraph (1):

22 “(i) Subject to clause (ii), the Sec-
23 retary may suspend the registration if the
24 Secretary determines, after notice and op-
25 portunity for a hearing, that the registrant

1 has failed to maintain substantial compli-
2 ance with a registration condition.

3 “(ii) If the Secretary determines that,
4 under color of the registration, the ex-
5 porter has exported a drug or the importer
6 has imported a drug that is not a quali-
7 fying drug, or a drug that does not comply
8 with subsection (g)(2)(A) or (g)(4), or has
9 exported a qualifying drug to an individual
10 in violation of subsection (i)(2)(F), the
11 Secretary shall immediately suspend the
12 registration. A suspension under the pre-
13 ceding sentence is not subject to the provi-
14 sion by the Secretary of prior notice, and
15 the Secretary shall provide to the reg-
16 istrant an opportunity for a hearing not
17 later than 10 days after the date on which
18 the registration is suspended.

19 “(iii) The Secretary may reinstate the
20 registration, whether suspended under
21 clause (i) or (ii), if the Secretary deter-
22 mines that the registrant has demonstrated
23 that further violations of registration con-
24 ditions will not occur.

1 “(B) TERMINATION.—The Secretary, after
2 notice and opportunity for a hearing, may ter-
3minate the registration under paragraph (1) of
4 a registrant if the Secretary determines that
5 the registrant has engaged in a pattern or prac-
6 tice of violating 1 or more registration condi-
7 tions, or if on 1 or more occasions the Secretary
8 has under subparagraph (A)(ii) suspended the
9 registration of the registrant. The Secretary
10 may make the termination permanent, or for a
11 fixed period of not less than 1 year. During the
12 period in which the registration is terminated,
13 any registration submitted under paragraph (1)
14 by the registrant, or a person that is a partner
15 in the export or import enterprise, or a prin-
16 cipal officer in such enterprise, and any reg-
17 istration prepared with the assistance of the
18 registrant or such a person, has no legal effect
19 under this section.

20 “(5) DEFAULT OF BOND.—A bond required to
21 be posted by an exporter under paragraph (1)(I)(ii)
22 shall be defaulted and paid to the Treasury of the
23 United States if, after opportunity for an informal
24 hearing, the Secretary determines that the exporter
25 has—

1 “(A) exported a drug to the United States
2 that is not a qualifying drug or that is not in
3 compliance with subsection (g)(2)(A), (g)(4), or
4 (i); or

5 “(B) failed to permit the Secretary to con-
6 duct an inspection described under subsection
7 (d).

8 “(c) SOURCES OF QUALIFYING DRUGS.—A registra-
9 tion condition is that the exporter or importer involved
10 agrees that a qualifying drug will under subsection (a) be
11 exported or imported into the United States only if there
12 is compliance with the following:

13 “(1) The drug was manufactured in an estab-
14 lishment—

15 “(A) required to register under subsection
16 (h) or (i) of section 510; and

17 “(B)(i) inspected by the Secretary; or

18 “(ii) for which the Secretary has elected to
19 rely on a satisfactory report of a good manufac-
20 turing practice inspection of the establishment
21 from a permitted country whose regulatory sys-
22 tem the Secretary recognizes as equivalent
23 under a mutual recognition agreement, as pro-
24 vided for under section 510(i)(3), section 803,
25 or part 26 of title 21, Code of Federal Regula-

1 tions (or any corresponding successor rule or
2 regulation).

3 “(2) The establishment is located in any coun-
4 try, and the establishment manufactured the drug
5 for distribution in the United States or for distribu-
6 tion in 1 or more of the permitted countries (without
7 regard to whether in addition the drug is manufac-
8 tured for distribution in a foreign country that is
9 not a permitted country).

10 “(3) The exporter or importer obtained the
11 drug—

12 “(A) directly from the establishment; or

13 “(B) directly from an entity that, by con-
14 tract with the exporter or importer—

15 “(i) provides to the exporter or im-
16 porter a statement (in such form and con-
17 taining such information as the Secretary
18 may require) that, for the chain of custody
19 from the establishment, identifies each
20 prior sale, purchase, or trade of the drug
21 (including the date of the transaction and
22 the names and addresses of all parties to
23 the transaction);

1 “(ii) agrees to permit the Secretary to
2 inspect such statements and related
3 records to determine their accuracy;

4 “(iii) agrees, with respect to the quali-
5 fying drugs involved, to permit the Sec-
6 retary to inspect warehouses and other fa-
7 cilities, including records, of the entity for
8 purposes of determining whether the facili-
9 ties are in compliance with any standards
10 under this Act that are applicable to facili-
11 ties of that type in the United States; and

12 “(iv) has ensured, through such con-
13 tractual relationships as may be necessary,
14 that the Secretary has the same authority
15 regarding other parties in the chain of cus-
16 tody from the establishment that the Sec-
17 retary has under clauses (ii) and (iii) re-
18 garding such entity.

19 “(4)(A) The foreign country from which the im-
20 porter will import the drug is a permitted country;
21 or

22 “(B) The foreign country from which the ex-
23 porter will export the drug is the permitted country
24 in which the exporter is located.

1 “(5) During any period in which the drug was
2 not in the control of the manufacturer of the drug,
3 the drug did not enter any country that is not a per-
4 mitted country.

5 “(6) The exporter or importer retains a sample
6 of each lot of the drug for testing by the Secretary.

7 “(d) INSPECTION OF FACILITIES; MARKING OF SHIP-
8 MENTS.—

9 “(1) INSPECTION OF FACILITIES.—A registra-
10 tion condition is that, for the purpose of assisting
11 the Secretary in determining whether the exporter
12 involved is in compliance with all other registration
13 conditions—

14 “(A) the exporter agrees to permit the Sec-
15 retary—

16 “(i) to conduct onsite inspections, in-
17 cluding monitoring on a day-to-day basis,
18 of places of business of the exporter that
19 relate to qualifying drugs, including each
20 warehouse or other facility owned or con-
21 trolled by, or operated for, the exporter;

22 “(ii) to have access, including on a
23 day-to-day basis, to—

1 “(I) records of the exporter that
2 relate to the export of such drugs, in-
3 cluding financial records; and

4 “(II) samples of such drugs;

5 “(iii) to carry out the duties described
6 in paragraph (3); and

7 “(iv) to carry out any other functions
8 determined by the Secretary to be nec-
9 essary regarding the compliance of the ex-
10 porter; and

11 “(B) the Secretary has assigned 1 or more
12 employees of the Secretary to carry out the
13 functions described in this subsection for the
14 Secretary randomly, but not less than 12 times
15 annually, on the premises of places of busi-
16 nesses referred to in subparagraph (A)(i), and
17 such an assignment remains in effect on a con-
18 tinuous basis.

19 “(2) MARKING OF COMPLIANT SHIPMENTS.—A
20 registration condition is that the exporter involved
21 agrees to affix to each shipping container of quali-
22 fying drugs exported under subsection (a) such
23 markings as the Secretary determines to be nec-
24 essary to identify the shipment as being in compli-

1 ance with all registration conditions. Markings under
2 the preceding sentence shall—

3 “(A) be designed to prevent affixation of
4 the markings to any shipping container that is
5 not authorized to bear the markings; and

6 “(B) include anticounterfeiting or track-
7 and-trace technologies, taking into account the
8 economic and technical feasibility of those tech-
9 nologies.

10 “(3) CERTAIN DUTIES RELATING TO EXPORT-
11 ERS.—Duties of the Secretary with respect to an ex-
12 porter include the following:

13 “(A) Inspecting, randomly, but not less
14 than 12 times annually, the places of business
15 of the exporter at which qualifying drugs are
16 stored and from which qualifying drugs are
17 shipped.

18 “(B) During the inspections under sub-
19 paragraph (A), verifying the chain of custody of
20 a statistically significant sample of qualifying
21 drugs from the establishment in which the drug
22 was manufactured to the exporter, which shall
23 be accomplished or supplemented by the use of
24 anticounterfeiting or track-and-trace tech-
25 nologies, taking into account the economic and

1 technical feasibility of those technologies, except
2 that a drug that lacks such technologies from
3 the point of manufacture shall not for that rea-
4 son be excluded from importation by an ex-
5 porter.

6 “(C) Randomly reviewing records of ex-
7 ports to individuals for the purpose of deter-
8 mining whether the drugs are being imported
9 by the individuals in accordance with the condi-
10 tions under subsection (i). Such reviews shall be
11 conducted in a manner that will result in a sta-
12 tistically significant determination of compli-
13 ance with all such conditions.

14 “(D) Monitoring the affixing of markings
15 under paragraph (2).

16 “(E) Inspecting as the Secretary deter-
17 mines is necessary the warehouses and other fa-
18 cilities, including records, of other parties in the
19 chain of custody of qualifying drugs.

20 “(F) Determining whether the exporter is
21 in compliance with all other registration condi-
22 tions.

23 “(4) PRIOR NOTICE OF SHIPMENTS.—A reg-
24 istration condition is that, not less than 8 hours and
25 not more than 5 days in advance of the time of the

1 importation of a shipment of qualifying drugs, the
2 importer involved agrees to submit to the Secretary
3 a notice with respect to the shipment of drugs to be
4 imported or offered for import into the United
5 States under subsection (a). A notice under the pre-
6 ceding sentence shall include—

7 “(A) the name and complete contact infor-
8 mation of the person submitting the notice;

9 “(B) the name and complete contact infor-
10 mation of the importer involved;

11 “(C) the identity of the drug, including the
12 established name of the drug, the quantity of
13 the drug, and the lot number assigned by the
14 manufacturer;

15 “(D) the identity of the manufacturer of
16 the drug, including the identity of the establish-
17 ment at which the drug was manufactured;

18 “(E) the country from which the drug is
19 shipped;

20 “(F) the name and complete contact infor-
21 mation for the shipper of the drug;

22 “(G) anticipated arrival information, in-
23 cluding the port of arrival and crossing location
24 within that port, and the date and time;

1 “(H) a summary of the chain of custody of
2 the drug from the establishment in which the
3 drug was manufactured to the importer;

4 “(I) a declaration as to whether the Sec-
5 retary has ordered that importation of the drug
6 from the permitted country cease under sub-
7 section (g)(2)(C) or (D); and

8 “(J) such other information as the Sec-
9 retary may require by regulation.

10 “(5) MARKING OF COMPLIANT SHIPMENTS.—A
11 registration condition is that the importer involved
12 agrees, before wholesale distribution (as defined in
13 section 503(e)) of a qualifying drug that has been
14 imported under subsection (a), to affix to each con-
15 tainer of such drug such markings or other tech-
16 nology as the Secretary determines necessary to
17 identify the shipment as being in compliance with all
18 registration conditions, except that the markings or
19 other technology shall not be required on a drug
20 that bears comparable, compatible markings or tech-
21 nology from the manufacturer of the drug. Markings
22 or other technology under the preceding sentence
23 shall—

24 “(A) be designed to prevent affixation of
25 the markings or other technology to any con-

1 tainer that is not authorized to bear the mark-
2 ings; and

3 “(B) shall include anticounterfeiting or
4 track-and-trace technologies, taking into ac-
5 count the economic and technical feasibility of
6 such technologies.

7 “(6) CERTAIN DUTIES RELATING TO IMPORT-
8 ERS.—Duties of the Secretary with respect to an im-
9 porter include the following:

10 “(A) Inspecting, randomly, but not less
11 than 12 times annually, the places of business
12 of the importer at which a qualifying drug is
13 initially received after importation.

14 “(B) During the inspections under sub-
15 paragraph (A), verifying the chain of custody of
16 a statistically significant sample of qualifying
17 drugs from the establishment in which the drug
18 was manufactured to the importer, which shall
19 be accomplished or supplemented by the use of
20 anticounterfeiting or track-and-trace tech-
21 nologies, taking into account the economic and
22 technical feasibility of those technologies, except
23 that a drug that lacks such technologies from
24 the point of manufacture shall not for that rea-

1 son be excluded from importation by an im-
2 porter.

3 “(C) Reviewing notices under paragraph
4 (4).

5 “(D) Inspecting as the Secretary deter-
6 mines is necessary the warehouses and other fa-
7 cilities, including records of other parties in the
8 chain of custody of qualifying drugs.

9 “(E) Determining whether the importer is
10 in compliance with all other registration condi-
11 tions.

12 “(e) IMPORTER FEES.—

13 “(1) REGISTRATION FEE.—A registration con-
14 dition is that the importer involved pays to the Sec-
15 retary a fee of \$10,000 due on the date on which
16 the importer first submits the registration to the
17 Secretary under subsection (b).

18 “(2) INSPECTION FEE.—A registration condi-
19 tion is that the importer involved pays a fee to the
20 Secretary in accordance with this subsection. Such
21 fee shall be paid not later than October 1 and April
22 1 of each fiscal year in the amount provided for
23 under paragraph (3).

24 “(3) AMOUNT OF INSPECTION FEE.—

1 “(A) AGGREGATE TOTAL OF FEES.—Not
2 later than 30 days before the start of each fis-
3 cal year, the Secretary, in consultation with the
4 Secretary of Homeland Security and the Sec-
5 retary of the Treasury, shall establish an aggre-
6 gate total of fees to be collected under para-
7 graph (2) for importers for that fiscal year that
8 is sufficient, and not more than necessary, to
9 pay the costs for that fiscal year of admin-
10 istering this section with respect to registered
11 importers, including the costs associated with—

12 “(i) inspecting the facilities of reg-
13 istered importers, and of other entities in
14 the chain of custody of a qualifying drug
15 as necessary, under subsection (d)(6);

16 “(ii) developing, implementing, and
17 operating under such subsection an elec-
18 tronic system for submission and review of
19 the notices required under subsection
20 (d)(4) with respect to shipments of quali-
21 fying drugs under subsection (a) to assess
22 compliance with all registration conditions
23 when such shipments are offered for im-
24 port into the United States; and

1 “(iii) inspecting such shipments as
2 necessary, when offered for import into the
3 United States to determine if such a ship-
4 ment should be refused admission under
5 subsection (g)(5).

6 “(B) LIMITATION.—Subject to subpara-
7 graph (C), the aggregate total of fees collected
8 under paragraph (2) for a fiscal year shall not
9 exceed 2.5 percent of the total price of quali-
10 fying drugs imported during that fiscal year
11 into the United States by registered importers
12 under subsection (a).

13 “(C) TOTAL PRICE OF DRUGS.—

14 “(i) ESTIMATE.—For the purposes of
15 complying with the limitation described in
16 subparagraph (B) when establishing under
17 subparagraph (A) the aggregate total of
18 fees to be collected under paragraph (2)
19 for a fiscal year, the Secretary shall esti-
20 mate the total price of qualifying drugs im-
21 ported into the United States by registered
22 importers during that fiscal year by adding
23 the total price of qualifying drugs imported
24 by each registered importer during the 6-
25 month period from January 1 through

1 June 30 of the previous fiscal year, as re-
2 ported to the Secretary by each registered
3 importer under subsection (b)(1)(J).

4 “(ii) CALCULATION.—Not later than
5 March 1 of the fiscal year that follows the
6 fiscal year for which the estimate under
7 clause (i) is made, the Secretary shall cal-
8 culate the total price of qualifying drugs
9 imported into the United States by reg-
10 istered importers during that fiscal year by
11 adding the total price of qualifying drugs
12 imported by each registered importer dur-
13 ing that fiscal year, as reported to the Sec-
14 retary by each registered importer under
15 subsection (b)(1)(J).

16 “(iii) ADJUSTMENT.—If the total
17 price of qualifying drugs imported into the
18 United States by registered importers dur-
19 ing a fiscal year as calculated under clause
20 (ii) is less than the aggregate total of fees
21 collected under paragraph (2) for that fis-
22 cal year, the Secretary shall provide for a
23 pro-rata reduction in the fee due from each
24 registered importer on April 1 of the sub-

1 sequent fiscal year so that the limitation
2 described in subparagraph (B) is observed.

3 “(D) INDIVIDUAL IMPORTER FEE.—Sub-
4 ject to the limitation described in subparagraph
5 (B), the fee under paragraph (2) to be paid on
6 October 1 and April 1 by an importer shall be
7 an amount that is proportional to a reasonable
8 estimate by the Secretary of the semiannual
9 share of the importer of the volume of quali-
10 fying drugs imported by importers under sub-
11 section (a).

12 “(4) USE OF FEES.—

13 “(A) IN GENERAL.—Subject to appropria-
14 tions Acts, fees collected by the Secretary under
15 paragraphs (1) and (2) shall be credited to the
16 appropriation account for salaries and expenses
17 of the Food and Drug Administration until ex-
18 pended (without fiscal year limitation), and the
19 Secretary may, in consultation with the Sec-
20 retary of Homeland Security and the Secretary
21 of the Treasury, transfer some proportion of
22 such fees to the appropriation account for sala-
23 ries and expenses of the Bureau of Customs
24 and Border Protection until expended (without
25 fiscal year limitation).

1 “(B) SOLE PURPOSE.—Fees collected by
2 the Secretary under paragraphs (1) and (2) are
3 only available to the Secretary and, if trans-
4 ferred, to the Secretary of Homeland Security,
5 and are for the sole purpose of paying the costs
6 referred to in paragraph (3)(A).

7 “(5) COLLECTION OF FEES.—In any case where
8 the Secretary does not receive payment of a fee as-
9 sessed under paragraph (1) or (2) within 30 days
10 after it is due, such fee shall be treated as a claim
11 of the United States Government subject to sub-
12 chapter II of chapter 37 of title 31, United States
13 Code.

14 “(f) EXPORTER FEES.—

15 “(1) REGISTRATION FEE.—A registration con-
16 dition is that the exporter involved pays to the Sec-
17 retary a fee of \$10,000 due on the date on which
18 the exporter first submits that registration to the
19 Secretary under subsection (b).

20 “(2) INSPECTION FEE.—A registration condi-
21 tion is that the exporter involved pays a fee to the
22 Secretary in accordance with this subsection. Such
23 fee shall be paid not later than October 1 and April
24 1 of each fiscal year in the amount provided for
25 under paragraph (3).

1 “(3) AMOUNT OF INSPECTION FEE.—

2 “(A) AGGREGATE TOTAL OF FEES.—Not
3 later than 30 days before the start of each fis-
4 cal year, the Secretary, in consultation with the
5 Secretary of Homeland Security and the Sec-
6 retary of the Treasury, shall establish an aggre-
7 gate total of fees to be collected under para-
8 graph (2) for exporters for that fiscal year that
9 is sufficient, and not more than necessary, to
10 pay the costs for that fiscal year of admin-
11 istering this section with respect to registered
12 exporters, including the costs associated with—

13 “(i) inspecting the facilities of reg-
14 istered exporters, and of other entities in
15 the chain of custody of a qualifying drug
16 as necessary, under subsection (d)(3);

17 “(ii) developing, implementing, and
18 operating under such subsection a system
19 to screen marks on shipments of qualifying
20 drugs under subsection (a) that indicate
21 compliance with all registration conditions,
22 when such shipments are offered for im-
23 port into the United States; and

24 “(iii) screening such markings, and
25 inspecting such shipments as necessary,

1 when offered for import into the United
2 States to determine if such a shipment
3 should be refused admission under sub-
4 section (g)(5).

5 “(B) LIMITATION.—Subject to subpara-
6 graph (C), the aggregate total of fees collected
7 under paragraph (2) for a fiscal year shall not
8 exceed 2.5 percent of the total price of quali-
9 fying drugs imported during that fiscal year
10 into the United States by registered exporters
11 under subsection (a).

12 “(C) TOTAL PRICE OF DRUGS.—

13 “(i) ESTIMATE.—For the purposes of
14 complying with the limitation described in
15 subparagraph (B) when establishing under
16 subparagraph (A) the aggregate total of
17 fees to be collected under paragraph (2)
18 for a fiscal year, the Secretary shall esti-
19 mate the total price of qualifying drugs im-
20 ported into the United States by registered
21 exporters during that fiscal year by adding
22 the total price of qualifying drugs exported
23 by each registered exporter during the 6-
24 month period from January 1 through
25 June 30 of the previous fiscal year, as re-

1 ported to the Secretary by each registered
2 exporter under subsection (b)(1)(I)(iv).

3 “(ii) CALCULATION.—Not later than
4 March 1 of the fiscal year that follows the
5 fiscal year for which the estimate under
6 clause (i) is made, the Secretary shall cal-
7 culate the total price of qualifying drugs
8 imported into the United States by reg-
9 istered exporters during that fiscal year by
10 adding the total price of qualifying drugs
11 exported by each registered exporter dur-
12 ing that fiscal year, as reported to the Sec-
13 retary by each registered exporter under
14 subsection (b)(1)(I)(iv).

15 “(iii) ADJUSTMENT.—If the total
16 price of qualifying drugs imported into the
17 United States by registered exporters dur-
18 ing a fiscal year as calculated under clause
19 (ii) is less than the aggregate total of fees
20 collected under paragraph (2) for that fis-
21 cal year, the Secretary shall provide for a
22 pro-rata reduction in the fee due from each
23 registered exporter on April 1 of the subse-
24 quent fiscal year so that the limitation de-
25 scribed in subparagraph (B) is observed.

1 “(D) INDIVIDUAL EXPORTER FEE.—Sub-
2 ject to the limitation described in subparagraph
3 (B), the fee under paragraph (2) to be paid on
4 October 1 and April 1 by an exporter shall be
5 an amount that is proportional to a reasonable
6 estimate by the Secretary of the semiannual
7 share of the exporter of the volume of quali-
8 fying drugs exported by exporters under sub-
9 section (a).

10 “(4) USE OF FEES.—

11 “(A) IN GENERAL.—Subject to appropria-
12 tions Acts, fees collected by the Secretary under
13 paragraphs (1) and (2) shall be credited to the
14 appropriation account for salaries and expenses
15 of the Food and Drug Administration until ex-
16 pended (without fiscal year limitation), and the
17 Secretary may, in consultation with the Sec-
18 retary of Homeland Security and the Secretary
19 of the Treasury, transfer some proportion of
20 such fees to the appropriation account for sala-
21 ries and expenses of the Bureau of Customs
22 and Border Protection until expended (without
23 fiscal year limitation).

24 “(B) SOLE PURPOSE.—Fees collected by
25 the Secretary under paragraphs (1) and (2) are

1 only available to the Secretary and, if trans-
2 ferred, to the Secretary of Homeland Security,
3 and are for the sole purpose of paying the costs
4 referred to in paragraph (3)(A).

5 “(5) COLLECTION OF FEES.—In any case where
6 the Secretary does not receive payment of a fee as-
7 sessed under paragraph (1) or (2) within 30 days
8 after it is due, such fee shall be treated as a claim
9 of the United States Government subject to sub-
10 chapter II of chapter 37 of title 31, United States
11 Code.

12 “(g) COMPLIANCE WITH SECTION 801(a).—

13 “(1) IN GENERAL.—A registration condition is
14 that each qualifying drug exported under subsection
15 (a) by the registered exporter involved or imported
16 under subsection (a) by the registered importer in-
17 volved is in compliance with the standards referred
18 to in section 801(a) regarding admission of the drug
19 into the United States, subject to paragraphs (2),
20 (3), and (4).

21 “(2) SECTION 505; APPROVAL STATUS.—

22 “(A) IN GENERAL.—A qualifying drug that
23 is imported or offered for import under sub-
24 section (a) shall comply with the conditions es-
25 tablished in the approved application under sec-

1 tion 505(b) for the U.S. label drug as described
2 under this subsection.

3 “(B) NOTICE BY MANUFACTURER; GEN-
4 ERAL PROVISIONS.—

5 “(i) IN GENERAL.—The person that
6 manufactures a qualifying drug that is, or
7 will be, introduced for commercial distribu-
8 tion in a permitted country shall in accord-
9 ance with this paragraph submit to the
10 Secretary a notice that—

11 “(I) includes each difference in
12 the qualifying drug from a condition
13 established in the approved applica-
14 tion for the U.S. label drug beyond—

15 “(aa) the variations provided
16 for in the application; and

17 “(bb) any difference in label-
18 ing (except ingredient labeling);
19 or

20 “(II) States that there is no dif-
21 ference in the qualifying drug from a
22 condition established in the approved
23 application for the U.S. label drug be-
24 yond—

1 “(aa) the variations provided
2 for in the application; and

3 “(bb) any difference in label-
4 ing (except ingredient labeling).

5 “(ii) INFORMATION IN NOTICE.—A
6 notice under clause (i)(I) shall include the
7 information that the Secretary may require
8 under section 506A, any additional infor-
9 mation the Secretary may require (which
10 may include data on bioequivalence if such
11 data are not required under section 506A),
12 and, with respect to the permitted country
13 that approved the qualifying drug for com-
14 mercial distribution, or with respect to
15 which such approval is sought, include the
16 following:

17 “(I) The date on which the quali-
18 fying drug with such difference was,
19 or will be, introduced for commercial
20 distribution in the permitted country.

21 “(II) Information demonstrating
22 that the person submitting the notice
23 has also notified the government of
24 the permitted country in writing that
25 the person is submitting to the Sec-

1 retary a notice under clause (i)(I),
2 which notice describes the difference
3 in the qualifying drug from a condi-
4 tion established in the approved appli-
5 cation for the U.S. label drug.

6 “(III) The information that the
7 person submitted or will submit to the
8 government of the permitted country
9 for purposes of obtaining approval for
10 commercial distribution of the drug in
11 the country which, if in a language
12 other than English, shall be accom-
13 panied by an English translation
14 verified to be complete and accurate,
15 with the name, address, and a brief
16 statement of the qualifications of the
17 person that made the translation.

18 “(iii) CERTIFICATIONS.—The chief ex-
19 ecutive officer and the chief medical officer
20 of the manufacturer involved shall each
21 certify in the notice under clause (i) that—

22 “(I) the information provided in
23 the notice is complete and true; and

24 “(II) a copy of the notice has
25 been provided to the Federal Trade

1 Commission and to the State attor-
2 neys general.

3 “(iv) FEE.—If a notice submitted
4 under clause (i) includes a difference that
5 would, under section 506A, require the
6 submission of a supplemental application if
7 made as a change to the U.S. label drug,
8 the person that submits the notice shall
9 pay to the Secretary a fee in the same
10 amount as would apply if the person were
11 paying a fee pursuant to section
12 736(a)(1)(A)(ii). Subject to appropriations
13 Acts, fees collected by the Secretary under
14 the preceding sentence are available only to
15 the Secretary and are for the sole purpose
16 of paying the costs of reviewing notices
17 submitted under clause (i).

18 “(v) TIMING OF SUBMISSION OF NO-
19 TICES.—

20 “(I) PRIOR APPROVAL NO-
21 TICES.—A notice under clause (i) to
22 which subparagraph (C) applies shall
23 be submitted to the Secretary not
24 later than 120 days before the quali-
25 fying drug with the difference is intro-

1 duced for commercial distribution in a
2 permitted country, unless the country
3 requires that distribution of the quali-
4 fying drug with the difference begin
5 less than 120 days after the country
6 requires the difference.

7 “(II) OTHER APPROVAL NO-
8 TICES.—A notice under clause (i) to
9 which subparagraph (D) applies shall
10 be submitted to the Secretary not
11 later than the day on which the quali-
12 fying drug with the difference is intro-
13 duced for commercial distribution in a
14 permitted country.

15 “(III) OTHER NOTICES.—A no-
16 tice under clause (i) to which subpara-
17 graph (E) applies shall be submitted
18 to the Secretary on the date that the
19 qualifying drug is first introduced for
20 commercial distribution in a permitted
21 country and annually thereafter.

22 “(vi) REVIEW BY SECRETARY.—

23 “(I) IN GENERAL.—In this para-
24 graph, the difference in a qualifying
25 drug that is submitted in a notice

1 under clause (i) from the U.S. label
2 drug shall be treated by the Secretary
3 as if it were a manufacturing change
4 to the U.S. label drug under section
5 506A.

6 “(II) STANDARD OF REVIEW.—
7 Except as provided in subclause (III),
8 the Secretary shall review and approve
9 or disapprove the difference in a no-
10 tice submitted under clause (i), if re-
11 quired under section 506A, using the
12 safe and effective standard for ap-
13 proving or disapproving a manufac-
14 turing change under section 506A.

15 “(III) BIOEQUIVALENCE.—If the
16 Secretary would approve the dif-
17 ference in a notice submitted under
18 clause (i) using the safe and effective
19 standard under section 506A and if
20 the Secretary determines that the
21 qualifying drug is not bioequivalent to
22 the U.S. label drug, the Secretary
23 shall—

24 “(aa) include in the labeling
25 provided under paragraph (3) a

1 prominent advisory that the
2 qualifying drug is safe and effec-
3 tive but is not bioequivalent to
4 the U.S. label drug if the Sec-
5 retary determines that such an
6 advisory is necessary for health
7 care practitioners and patients to
8 use the qualifying drug safely
9 and effectively; or

10 “(bb) decline to approve the
11 difference if the Secretary deter-
12 mines that the availability of
13 both the qualifying drug and the
14 U.S. label drug would pose a
15 threat to the public health.

16 “(IV) REVIEW BY THE SEC-
17 RETARY.—The Secretary shall review
18 and approve or disapprove the dif-
19 ference in a notice submitted under
20 clause (i), if required under section
21 506A, not later than 120 days after
22 the date on which the notice is sub-
23 mitted.

24 “(V) ESTABLISHMENT INSPEC-
25 TION.—If review of such difference

1 would require an inspection of the es-
2 tablishment in which the qualifying
3 drug is manufactured—

4 “(aa) such inspection by the
5 Secretary shall be authorized;
6 and

7 “(bb) the Secretary may rely
8 on a satisfactory report of a good
9 manufacturing practice inspec-
10 tion of the establishment from a
11 permitted country whose regu-
12 latory system the Secretary re-
13 cognizes as equivalent under a
14 mutual recognition agreement, as
15 provided under section 510(i)(3),
16 section 803, or part 26 of title
17 21, Code of Federal Regulations
18 (or any corresponding successor
19 rule or regulation).

20 “(vii) PUBLICATION OF INFORMATION
21 ON NOTICES.—

22 “(I) IN GENERAL.—Through the
23 Internet website of the Food and
24 Drug Administration and a toll-free
25 telephone number, the Secretary shall

1 readily make available to the public a
2 list of notices submitted under clause
3 (i).

4 “(II) CONTENTS.—The list under
5 subclause (I) shall include the date on
6 which a notice is submitted and
7 whether—

8 “(aa) a notice is under re-
9 view;

10 “(bb) the Secretary has or-
11 dered that importation of the
12 qualifying drug from a permitted
13 country cease; or

14 “(cc) the importation of the
15 drug is permitted under sub-
16 section (a).

17 “(III) UPDATE.—The Secretary
18 shall promptly update the Internet
19 website with any changes to the list.

20 “(C) NOTICE; DRUG DIFFERENCE REQUIR-
21 ING PRIOR APPROVAL.—In the case of a notice
22 under subparagraph (B)(i) that includes a dif-
23 ference that would, under section 506A(c) or
24 (d)(3)(B)(i), require the approval of a supple-
25 mental application before the difference could

1 be made to the U.S. label drug the following
2 shall occur:

3 “(i) Promptly after the notice is sub-
4 mitted, the Secretary shall notify reg-
5 istered exporters, registered importers, the
6 Federal Trade Commission, and the State
7 attorneys general that the notice has been
8 submitted with respect to the qualifying
9 drug involved.

10 “(ii) If the Secretary has not made a
11 determination whether such a supple-
12 mental application regarding the U.S. label
13 drug would be approved or disapproved by
14 the date on which the qualifying drug in-
15 volved is to be introduced for commercial
16 distribution in a permitted country, the
17 Secretary shall—

18 “(I) order that the importation of
19 the qualifying drug involved from the
20 permitted country not begin until the
21 Secretary completes review of the no-
22 tice; and

23 “(II) promptly notify registered
24 exporters, registered importers, the

1 Federal Trade Commission, and the
2 State attorneys general of the order.

3 “(iii) If the Secretary determines that
4 such a supplemental application regarding
5 the U.S. label drug would not be approved,
6 the Secretary shall—

7 “(I) order that the importation of
8 the qualifying drug involved from the
9 permitted country cease, or provide
10 that an order under clause (ii), if any,
11 remains in effect;

12 “(II) notify the permitted coun-
13 try that approved the qualifying drug
14 for commercial distribution of the de-
15 termination; and

16 “(III) promptly notify registered
17 exporters, registered importers, the
18 Federal Trade Commission, and the
19 State attorneys general of the deter-
20 mination.

21 “(iv) If the Secretary determines that
22 such a supplemental application regarding
23 the U.S. label drug would be approved, the
24 Secretary shall—

1 “(I) vacate the order under
2 clause (ii), if any;

3 “(II) consider the difference to
4 be a variation provided for in the ap-
5 proved application for the U.S. label
6 drug;

7 “(III) permit importation of the
8 qualifying drug under subsection (a);
9 and

10 “(IV) promptly notify registered
11 exporters, registered importers, the
12 Federal Trade Commission, and the
13 State attorneys general of the deter-
14 mination.

15 “(D) NOTICE; DRUG DIFFERENCE NOT RE-
16 QUIRING PRIOR APPROVAL.—In the case of a
17 notice under subparagraph (B)(i) that includes
18 a difference that would, under section
19 506A(d)(3)(B)(ii), not require the approval of a
20 supplemental application before the difference
21 could be made to the U.S. label drug the fol-
22 lowing shall occur:

23 “(i) During the period in which the
24 notice is being reviewed by the Secretary,
25 the authority under this subsection to im-

1 port the qualifying drug involved continues
2 in effect.

3 “(ii) If the Secretary determines that
4 such a supplemental application regarding
5 the U.S. label drug would not be approved,
6 the Secretary shall—

7 “(I) order that the importation of
8 the qualifying drug involved from the
9 permitted country cease;

10 “(II) notify the permitted coun-
11 try that approved the qualifying drug
12 for commercial distribution of the de-
13 termination; and

14 “(III) promptly notify registered
15 exporters, registered importers, the
16 Federal Trade Commission, and the
17 State attorneys general of the deter-
18 mination.

19 “(iii) If the Secretary determines that
20 such a supplemental application regarding
21 the U.S. label drug would be approved, the
22 difference shall be considered to be a vari-
23 ation provided for in the approved applica-
24 tion for the U.S. label drug.

1 “(E) NOTICE; DRUG DIFFERENCE NOT RE-
2 QUIRING APPROVAL; NO DIFFERENCE.—In the
3 case of a notice under subparagraph (B)(i) that
4 includes a difference for which, under section
5 506A(d)(1)(A), a supplemental application
6 would not be required for the difference to be
7 made to the U.S. label drug, or that States that
8 there is no difference, the Secretary—

9 “(i) shall consider such difference to
10 be a variation provided for in the approved
11 application for the U.S. label drug;

12 “(ii) may not order that the importa-
13 tion of the qualifying drug involved cease;
14 and

15 “(iii) shall promptly notify registered
16 exporters and registered importers.

17 “(F) DIFFERENCES IN ACTIVE INGRE-
18 DIENT, ROUTE OF ADMINISTRATION, DOSAGE
19 FORM, OR STRENGTH.—

20 “(i) IN GENERAL.—A person who
21 manufactures a drug approved under sec-
22 tion 505(b) shall submit an application
23 under section 505(b) for approval of an-
24 other drug that is manufactured for dis-
25 tribution in a permitted country by or for

1 the person that manufactures the drug ap-
2 proved under section 505(b) if—

3 “(I) there is no qualifying drug
4 in commercial distribution in per-
5 mitted countries whose combined pop-
6 ulation represents at least 50 percent
7 of the total population of all permitted
8 countries with the same active ingre-
9 dient or ingredients, route of adminis-
10 tration, dosage form, and strength as
11 the drug approved under section
12 505(b); and

13 “(II) each active ingredient of
14 the other drug is related to an active
15 ingredient of the drug approved under
16 section 505(b), as defined in clause
17 (v).

18 “(ii) APPLICATION UNDER SECTION
19 505(b).—The application under section
20 505(b) required under clause (i) shall—

21 “(I) request approval of the other
22 drug for the indication or indications
23 for which the drug approved under
24 section 505(b) is labeled;

1 “(II) include the information that
2 the person submitted to the govern-
3 ment of the permitted country for
4 purposes of obtaining approval for
5 commercial distribution of the other
6 drug in that country, which if in a
7 language other than English, shall be
8 accompanied by an English trans-
9 lation verified to be complete and ac-
10 curate, with the name, address, and a
11 brief statement of the qualifications of
12 the person that made the translation;

13 “(III) include a right of reference
14 to the application for the drug ap-
15 proved under section 505(b); and

16 “(IV) include such additional in-
17 formation as the Secretary may re-
18 quire.

19 “(iii) TIMING OF SUBMISSION OF AP-
20 PLICATION.—An application under section
21 505(b) required under clause (i) shall be
22 submitted to the Secretary not later than
23 the day on which the information referred
24 to in clause (ii)(II) is submitted to the gov-
25 ernment of the permitted country.

1 “(iv) NOTICE OF DECISION ON APPLI-
2 CATION.—The Secretary shall promptly no-
3 tify registered exporters, registered import-
4 ers, the Federal Trade Commission, and
5 the State attorneys general of a determina-
6 tion to approve or to disapprove an appli-
7 cation under section 505(b) required under
8 clause (i).

9 “(v) RELATED ACTIVE INGREDI-
10 ENTS.—For purposes of clause (i)(II), 2
11 active ingredients are related if they are—

12 “(I) the same; or

13 “(II) different salts, esters, or
14 complexes of the same moiety.

15 “(3) SECTION 502; LABELING.—

16 “(A) IMPORTATION BY REGISTERED IM-
17 PORTER.—

18 “(i) IN GENERAL.—In the case of a
19 qualifying drug that is imported or offered
20 for import by a registered importer, such
21 drug shall be considered to be in compli-
22 ance with section 502 and the labeling re-
23 quirements under the approved application
24 for the U.S. label drug if the qualifying
25 drug bears—

1 “(I) a copy of the labeling ap-
2 proved for the U.S. label drug under
3 section 505, without regard to wheth-
4 er the copy bears any trademark in-
5 volved;

6 “(II) the name of the manufac-
7 turer and location of the manufac-
8 turer;

9 “(III) the lot number assigned by
10 the manufacturer;

11 “(IV) the name, location, and
12 registration number of the importer;
13 and

14 “(V) the National Drug Code
15 number assigned to the qualifying
16 drug by the Secretary.

17 “(ii) REQUEST FOR COPY OF THE LA-
18 BELING.—The Secretary shall provide such
19 copy to the registered importer involved,
20 upon request of the importer.

21 “(iii) REQUESTED LABELING.—The
22 labeling provided by the Secretary under
23 clause (ii) shall—

24 “(I) include the established
25 name, as defined in section 502(e)(3),

1 for each active ingredient in the quali-
2 fying drug;

3 “(II) not include the proprietary
4 name of the U.S. label drug or any
5 active ingredient thereof;

6 “(III) if required under para-
7 graph (2)(B)(vi)(III), a prominent ad-
8 visory that the qualifying drug is safe
9 and effective but not bioequivalent to
10 the U.S. label drug; and

11 “(IV) if the inactive ingredients
12 of the qualifying drug are different
13 from the inactive ingredients for the
14 U.S. label drug, include—

15 “(aa) a prominent notice
16 that the ingredients of the quali-
17 fying drug differ from the ingre-
18 dients of the U.S. label drug and
19 that the qualifying drug must be
20 dispensed with an advisory to
21 people with allergies about this
22 difference and a list of ingredi-
23 ents; and

24 “(bb) a list of the ingredi-
25 ents of the qualifying drug as

1 would be required under section
2 502(e).

3 “(B) IMPORTATION BY INDIVIDUAL.—

4 “(i) IN GENERAL.—In the case of a
5 qualifying drug that is imported or offered
6 for import by a registered exporter to an
7 individual, such drug shall be considered to
8 be in compliance with section 502 and the
9 labeling requirements under the approved
10 application for the U.S. label drug if the
11 packaging and labeling of the qualifying
12 drug complies with all applicable regula-
13 tions promulgated under sections 3 and 4
14 of the Poison Prevention Packaging Act of
15 1970 (15 U.S.C. 1471 et seq.) and the la-
16 beling of the qualifying drug includes—

17 “(I) directions for use by the
18 consumer;

19 “(II) the lot number assigned by
20 the manufacturer;

21 “(III) the name and registration
22 number of the exporter;

23 “(IV) if required under para-
24 graph (2)(B)(vi)(III), a prominent ad-
25 visory that the drug is safe and effec-

1 tive but not bioequivalent to the U.S.
2 label drug;

3 “(V) if the inactive ingredients of
4 the drug are different from the inac-
5 tive ingredients for the U.S. label
6 drug—

7 “(aa) a prominent advisory
8 that persons with an allergy
9 should check the ingredient list
10 of the drug because the ingredi-
11 ents of the drug differ from the
12 ingredients of the U.S. label
13 drug; and

14 “(bb) a list of the ingredi-
15 ents of the drug as would be re-
16 quired under section 502(e); and

17 “(VI) a copy of any special label-
18 ing that would be required by the Sec-
19 retary had the U.S. label drug been
20 dispensed by a pharmacist in the
21 United States, without regard to
22 whether the special labeling bears any
23 trademark involved.

24 “(ii) PACKAGING.—A qualifying drug
25 offered for import to an individual by an

1 exporter under this section that is pack-
2 aged in a unit-of-use container (as those
3 items are defined in the United States
4 Pharmacopeia and National Formulary)
5 shall not be repackaged, provided that—

6 “(I) the packaging complies with
7 all applicable regulations under sec-
8 tions 3 and 4 of the Poison Preven-
9 tion Packaging Act of 1970 (15
10 U.S.C. 1471 et seq.); or

11 “(II) the consumer consents to
12 waive the requirements of such Act,
13 after being informed that the pack-
14 aging does not comply with such Act
15 and that the exporter will provide the
16 drug in packaging that is compliant at
17 no additional cost.

18 “(iii) REQUEST FOR COPY OF SPECIAL
19 LABELING AND INGREDIENT LIST.—The
20 Secretary shall provide to the registered
21 exporter involved a copy of the special la-
22 beling, the advisory, and the ingredient list
23 described under clause (i), upon request of
24 the exporter.

1 “(iv) REQUESTED LABELING AND IN-
2 GREDIENT LIST.—The labeling and ingre-
3 dient list provided by the Secretary under
4 clause (iii) shall—

5 “(I) include the established
6 name, as defined in section 502(e)(3),
7 for each active ingredient in the drug;
8 and

9 “(II) not include the proprietary
10 name of the U.S. label drug or any
11 active ingredient thereof.

12 “(4) SECTION 501; ADULTERATION.—A quali-
13 fying drug that is imported or offered for import
14 under subsection (a) shall be considered to be in
15 compliance with section 501 if the drug is in compli-
16 ance with subsection (c).

17 “(5) STANDARDS FOR REFUSING ADMISSION.—
18 A drug exported under subsection (a) from a reg-
19 istered exporter or imported by a registered importer
20 may be refused admission into the United States if
21 1 or more of the following applies:

22 “(A) The drug is not a qualifying drug.

23 “(B) A notice for the drug required under
24 paragraph (2)(B) has not been submitted to the
25 Secretary.

1 “(C) The Secretary has ordered that im-
2 portation of the drug from the permitted coun-
3 try cease under paragraph (2) (C) or (D).

4 “(D) The drug does not comply with para-
5 graph (3) or (4).

6 “(E) The shipping container appears dam-
7 aged in a way that may affect the strength,
8 quality, or purity of the drug.

9 “(F) The Secretary becomes aware that—

10 “(i) the drug may be counterfeit;

11 “(ii) the drug may have been pre-
12 pared, packed, or held under insanitary
13 conditions; or

14 “(iii) the methods used in, or the fa-
15 cilities or controls used for, the manufac-
16 turing, processing, packing, or holding of
17 the drug do not conform to good manufac-
18 turing practice.

19 “(G) The Secretary has obtained an in-
20 junction under section 302 that prohibits the
21 distribution of the drug in interstate commerce.

22 “(H) The Secretary has under section
23 505(e) withdrawn approval of the drug.

24 “(I) The manufacturer of the drug has in-
25 stituted a recall of the drug.

1 “(J) If the drug is imported or offered for
2 import by a registered importer without submis-
3 sion of a notice in accordance with subsection
4 (d)(4).

5 “(K) If the drug is imported or offered for
6 import from a registered exporter to an indi-
7 vidual and 1 or more of the following applies:

8 “(i) The shipping container for such
9 drug does not bear the markings required
10 under subsection (d)(2).

11 “(ii) The markings on the shipping
12 container appear to be counterfeit.

13 “(iii) The shipping container or mark-
14 ings appear to have been tampered with.

15 “(h) EXPORTER LICENSURE IN PERMITTED COUN-
16 TRY.—A registration condition is that the exporter in-
17 volved agrees that a qualifying drug will be exported to
18 an individual only if the Secretary has verified that—

19 “(1) the exporter is authorized under the law of
20 the permitted country in which the exporter is lo-
21 cated to dispense prescription drugs; and

22 “(2) the exporter employs persons that are li-
23 censed under the law of the permitted country in
24 which the exporter is located to dispense prescription
25 drugs in sufficient number to dispense safely the

1 drugs exported by the exporter to individuals, and
2 the exporter assigns to those persons responsibility
3 for dispensing such drugs to individuals.

4 “(i) INDIVIDUALS; CONDITIONS FOR IMPORTA-
5 TION.—

6 “(1) IN GENERAL.—For purposes of subsection
7 (a)(2)(B), the importation of a qualifying drug by
8 an individual is in accordance with this subsection if
9 the following conditions are met:

10 “(A) The drug is accompanied by a copy of
11 a prescription for the drug, which prescrip-
12 tion—

13 “(i) is valid under applicable Federal
14 and State laws; and

15 “(ii) was issued by a practitioner who,
16 under the law of a State of which the indi-
17 vidual is a resident, or in which the indi-
18 vidual receives care from the practitioner
19 who issues the prescription, is authorized
20 to administer prescription drugs.

21 “(B) The drug is accompanied by a copy
22 of the documentation that was required under
23 the law or regulations of the permitted country
24 in which the exporter is located, as a condition
25 of dispensing the drug to the individual.

1 “(C) The copies referred to in subpara-
2 graphs (A)(i) and (B) are marked in a manner
3 sufficient—

4 “(i) to indicate that the prescription,
5 and the equivalent document in the per-
6 mitted country in which the exporter is lo-
7 cated, have been filled; and

8 “(ii) to prevent a duplicative filling by
9 another pharmacist.

10 “(D) The individual has provided to the
11 registered exporter a complete list of all drugs
12 used by the individual for review by the individ-
13 uals who dispense the drug.

14 “(E) The quantity of the drug does not ex-
15 ceed a 90-day supply.

16 “(F) The drug is not an ineligible subpart
17 H drug. For purposes of this section, a pre-
18 scription drug is an ‘ineligible subpart H drug’
19 if the drug was approved by the Secretary
20 under subpart H of part 314 of title 21, Code
21 of Federal Regulations (relating to accelerated
22 approval), with restrictions under section 520 of
23 such part to assure safe use, and the Secretary
24 has published in the Federal Register a notice
25 that the Secretary has determined that good

1 cause exists to prohibit the drug from being im-
2 ported pursuant to this subsection.

3 “(2) NOTICE REGARDING DRUG REFUSED AD-
4 MISSION.—If a registered exporter ships a drug to
5 an individual pursuant to subsection (a)(2)(B) and
6 the drug is refused admission to the United States,
7 a written notice shall be sent to the individual and
8 to the exporter that informs the individual and the
9 exporter of such refusal and the reason for the re-
10 fusal.

11 “(j) MAINTENANCE OF RECORDS AND SAMPLES.—

12 “(1) IN GENERAL.—A registration condition is
13 that the importer or exporter involved shall—

14 “(A) maintain records required under this
15 section for not less than 2 years; and

16 “(B) maintain samples of each lot of a
17 qualifying drug required under this section for
18 not more than 2 years.

19 “(2) PLACE OF RECORD MAINTENANCE.—The
20 records described under paragraph (1) shall be
21 maintained—

22 “(A) in the case of an importer, at the
23 place of business of the importer at which the
24 importer initially receives the qualifying drug
25 after importation; or

1 “(B) in the case of an exporter, at the fa-
2 cility from which the exporter ships the quali-
3 fying drug to the United States.

4 “(k) DRUG RECALLS.—

5 “(1) MANUFACTURERS.—A person that manu-
6 factures a qualifying drug imported from a per-
7 mitted country under this section shall promptly in-
8 form the Secretary—

9 “(A) if the drug is recalled or withdrawn
10 from the market in a permitted country;

11 “(B) how the drug may be identified, in-
12 cluding lot number; and

13 “(C) the reason for the recall or with-
14 drawal.

15 “(2) SECRETARY.—With respect to each per-
16 mitted country, the Secretary shall—

17 “(A) enter into an agreement with the gov-
18 ernment of the country to receive information
19 about recalls and withdrawals of qualifying
20 drugs in the country; or

21 “(B) monitor recalls and withdrawals of
22 qualifying drugs in the country using any infor-
23 mation that is available to the public in any
24 media.

1 “(3) NOTICE.—The Secretary may notify, as
2 appropriate, registered exporters, registered import-
3 ers, wholesalers, pharmacies, or the public of a recall
4 or withdrawal of a qualifying drug in a permitted
5 country.

6 “(1) DRUG LABELING AND PACKAGING.—

7 “(1) IN GENERAL.—When a qualifying drug
8 that is imported into the United States by an im-
9 porter under subsection (a) is dispensed by a phar-
10 macist to an individual, the pharmacist shall provide
11 that the packaging and labeling of the drug complies
12 with all applicable regulations promulgated under
13 sections 3 and 4 of the Poison Prevention Packaging
14 Act of 1970 (15 U.S.C. 1471 et seq.) and shall in-
15 clude with any other labeling provided to the indi-
16 vidual the following:

17 “(A) The lot number assigned by the man-
18 ufacturer.

19 “(B) The name and registration number of
20 the importer.

21 “(C) If required under paragraph
22 (2)(B)(vi)(III) of subsection (g), a prominent
23 advisory that the drug is safe and effective but
24 not bioequivalent to the U.S. label drug.

1 “(D) If the inactive ingredients of the drug
2 are different from the inactive ingredients for
3 the U.S. label drug—

4 “(i) a prominent advisory that persons
5 with allergies should check the ingredient
6 list of the drug because the ingredients of
7 the drug differ from the ingredients of the
8 U.S. label drug; and

9 “(ii) a list of the ingredients of the
10 drug as would be required under section
11 502(e).

12 “(2) PACKAGING.—A qualifying drug that is
13 packaged in a unit-of-use container (as those terms
14 are defined in the United States Pharmacopeia and
15 National Formulary) shall not be repackaged, pro-
16 vided that—

17 “(A) the packaging complies with all appli-
18 cable regulations under sections 3 and 4 of the
19 Poison Prevention Packaging Act of 1970 (15
20 U.S.C. 1471 et seq.); or

21 “(B) the consumer consents to waive the
22 requirements of such Act, after being informed
23 that the packaging does not comply with such
24 Act and that the pharmacist will provide the

1 drug in packaging that is compliant at no addi-
2 tional cost.

3 “(m) CHARITABLE CONTRIBUTIONS.—Notwith-
4 standing any other provision of this section, this section
5 does not authorize the importation into the United States
6 of a qualifying drug donated or otherwise supplied for free
7 or at nominal cost by the manufacturer of the drug to
8 a charitable or humanitarian organization, including the
9 United Nations and affiliates, or to a government of a for-
10 eign country.

11 “(n) UNFAIR AND DISCRIMINATORY ACTS AND PRAC-
12 TICES.—

13 “(1) IN GENERAL.—It is unlawful for a manu-
14 facturer, directly or indirectly (including by being a
15 party to a licensing agreement or other agreement),
16 to—

17 “(A) discriminate by charging a higher
18 price for a prescription drug sold to a registered
19 exporter or other person in a permitted country
20 that exports a qualifying drug to the United
21 States under this section than the price that is
22 charged, inclusive of rebates or other incentives
23 to the permitted country or other person, to an-
24 other person that is in the same country and

1 that does not export a qualifying drug into the
2 United States under this section;

3 “(B) discriminate by charging a higher
4 price for a prescription drug sold to a registered
5 importer or other person that distributes, sells,
6 or uses a qualifying drug imported into the
7 United States under this section than the price
8 that is charged to another person in the United
9 States that does not import a qualifying drug
10 under this section, or that does not distribute,
11 sell, or use such a drug;

12 “(C) discriminate by denying, restricting,
13 or delaying supplies of a prescription drug to a
14 registered exporter or other person in a per-
15 mitted country that exports a qualifying drug to
16 the United States under this section or to a
17 registered importer or other person that distrib-
18 utes, sells, or uses a qualifying drug imported
19 into the United States under this section;

20 “(D) discriminate by publicly, privately, or
21 otherwise refusing to do business with a reg-
22 istered exporter or other person in a permitted
23 country that exports a qualifying drug to the
24 United States under this section or with a reg-
25 istered importer or other person that distrib-

1 utes, sells, or uses a qualifying drug imported
2 into the United States under this section;

3 “(E) knowingly fail to submit a notice
4 under subsection (g)(2)(B)(i), knowingly fail to
5 submit such a notice on or before the date spec-
6 ified in subsection (g)(2)(B)(v) or as otherwise
7 required under subsection (e) (3), (4), and (5)
8 of section 4 of the Pharmaceutical Market Ac-
9 cess and Drug Safety Act of 2009, knowingly
10 submit such a notice that makes a materially
11 false, fictitious, or fraudulent statement, or
12 knowingly fail to provide promptly any informa-
13 tion requested by the Secretary to review such
14 a notice;

15 “(F) knowingly fail to submit an applica-
16 tion required under subsection (g)(2)(F), know-
17 ingly fail to submit such an application on or
18 before the date specified in subsection
19 (g)(2)(F)(ii), knowingly submit such an applica-
20 tion that makes a materially false, fictitious, or
21 fraudulent statement, or knowingly fail to pro-
22 vide promptly any information requested by the
23 Secretary to review such an application;

24 “(G) cause there to be a difference (includ-
25 ing a difference in active ingredient, route of

1 administration, dosage form, strength, formula-
2 tion, manufacturing establishment, manufac-
3 turing process, or person that manufactures the
4 drug) between a prescription drug for distribu-
5 tion in the United States and the drug for dis-
6 tribution in a permitted country;

7 “(H) refuse to allow an inspection author-
8 ized under this section of an establishment that
9 manufactures a qualifying drug that is, or will
10 be, introduced for commercial distribution in a
11 permitted country;

12 “(I) fail to conform to the methods used
13 in, or the facilities used for, the manufacturing,
14 processing, packing, or holding of a qualifying
15 drug that is, or will be, introduced for commer-
16 cial distribution in a permitted country to good
17 manufacturing practice under this Act;

18 “(J) become a party to a licensing agree-
19 ment or other agreement related to a qualifying
20 drug that fails to provide for compliance with
21 all requirements of this section with respect to
22 such drug;

23 “(K) enter into a contract that restricts,
24 prohibits, or delays the importation of a quali-
25 fying drug under this section;

1 “(L) engage in any other action to restrict,
2 prohibit, or delay the importation of a quali-
3 fying drug under this section; or

4 “(M) engage in any other action that the
5 Federal Trade Commission determines to dis-
6 criminate against a person that engages or at-
7 tempts to engage in the importation of a quali-
8 fying drug under this section.

9 “(2) REFERRAL OF POTENTIAL VIOLATIONS.—
10 The Secretary shall promptly refer to the Federal
11 Trade Commission each potential violation of sub-
12 paragraph (E), (F), (G), (H), or (I) of paragraph
13 (1) that becomes known to the Secretary.

14 “(3) AFFIRMATIVE DEFENSE.—

15 “(A) DISCRIMINATION.—It shall be an af-
16 firmative defense to a charge that a manufac-
17 turer has discriminated under subparagraph
18 (A), (B), (C), (D), or (M) of paragraph (1) that
19 the higher price charged for a prescription drug
20 sold to a person, the denial, restriction, or delay
21 of supplies of a prescription drug to a person,
22 the refusal to do business with a person, or
23 other discriminatory activity against a person,
24 is not based, in whole or in part, on—

1 “(i) the person exporting or importing
2 a qualifying drug into the United States
3 under this section; or

4 “(ii) the person distributing, selling,
5 or using a qualifying drug imported into
6 the United States under this section.

7 “(B) DRUG DIFFERENCES.—It shall be an
8 affirmative defense to a charge that a manufac-
9 turer has caused there to be a difference de-
10 scribed in subparagraph (G) of paragraph (1)
11 that—

12 “(i) the difference was required by the
13 country in which the drug is distributed;

14 “(ii) the Secretary has determined
15 that the difference was necessary to im-
16 prove the safety or effectiveness of the
17 drug;

18 “(iii) the person manufacturing the
19 drug for distribution in the United States
20 has given notice to the Secretary under
21 subsection (g)(2)(B)(i) that the drug for
22 distribution in the United States is not dif-
23 ferent from a drug for distribution in per-
24 mitted countries whose combined popu-
25 lation represents at least 50 percent of the

1 total population of all permitted countries;
2 or

3 “(iv) the difference was not caused, in
4 whole or in part, for the purpose of re-
5 stricting importation of the drug into the
6 United States under this section.

7 “(4) EFFECT OF SUBSECTION.—

8 “(A) SALES IN OTHER COUNTRIES.—This
9 subsection applies only to the sale or distribu-
10 tion of a prescription drug in a country if the
11 manufacturer of the drug chooses to sell or dis-
12 tribute the drug in the country. Nothing in this
13 subsection shall be construed to compel the
14 manufacturer of a drug to distribute or sell the
15 drug in a country.

16 “(B) DISCOUNTS TO INSURERS, HEALTH
17 PLANS, PHARMACY BENEFIT MANAGERS, AND
18 COVERED ENTITIES.—Nothing in this sub-
19 section shall be construed to—

20 “(i) prevent or restrict a manufac-
21 turer of a prescription drug from providing
22 discounts to an insurer, health plan, phar-
23 macy benefit manager in the United
24 States, or covered entity in the drug dis-
25 count program under section 340B of the

1 Public Health Service Act (42 U.S.C.
2 256b) in return for inclusion of the drug
3 on a formulary;

4 “(ii) require that such discounts be
5 made available to other purchasers of the
6 prescription drug; or

7 “(iii) prevent or restrict any other
8 measures taken by an insurer, health plan,
9 or pharmacy benefit manager to encourage
10 consumption of such prescription drug.

11 “(C) CHARITABLE CONTRIBUTIONS.—
12 Nothing in this subsection shall be construed
13 to—

14 “(i) prevent a manufacturer from do-
15 nating a prescription drug, or supplying a
16 prescription drug at nominal cost, to a
17 charitable or humanitarian organization,
18 including the United Nations and affili-
19 ates, or to a government of a foreign coun-
20 try; or

21 “(ii) apply to such donations or sup-
22 plying of a prescription drug.

23 “(5) ENFORCEMENT.—

24 “(A) UNFAIR OR DECEPTIVE ACT OR PRAC-
25 TICE.—A violation of this subsection shall be

1 treated as a violation of a rule defining an un-
2 fair or deceptive act or practice prescribed
3 under section 18(a)(1)(B) of the Federal Trade
4 Commission Act (15 U.S.C. 57a(a)(1)(B)).

5 “(B) ACTIONS BY THE COMMISSION.—The
6 Federal Trade Commission—

7 “(i) shall enforce this subsection in
8 the same manner, by the same means, and
9 with the same jurisdiction, powers, and du-
10 ties as though all applicable terms and pro-
11 visions of the Federal Trade Commission
12 Act (15 U.S.C. 41 et seq.) were incor-
13 porated into and made a part of this sec-
14 tion; and

15 “(ii) may seek monetary relief three-
16 fold the damages sustained, in addition to
17 any other remedy available to the Federal
18 Trade Commission under the Federal
19 Trade Commission Act (15 U.S.C. 41 et
20 seq.).

21 “(6) ACTIONS BY STATES.—

22 “(A) IN GENERAL.—

23 “(i) CIVIL ACTIONS.—In any case in
24 which the attorney general of a State has
25 reason to believe that an interest of the

1 residents of that State have been adversely
2 affected by any manufacturer that violates
3 paragraph (1), the attorney general of a
4 State may bring a civil action on behalf of
5 the residents of the State, and persons
6 doing business in the State, in a district
7 court of the United States of appropriate
8 jurisdiction to—

9 “(I) enjoin that practice;

10 “(II) enforce compliance with
11 this subsection;

12 “(III) obtain damages, restitu-
13 tion, or other compensation on behalf
14 of residents of the State and persons
15 doing business in the State, including
16 threefold the damages; or

17 “(IV) obtain such other relief as
18 the court may consider to be appro-
19 priate.

20 “(ii) NOTICE.—

21 “(I) IN GENERAL.—Before filing
22 an action under clause (i), the attor-
23 ney general of the State involved shall
24 provide to the Federal Trade Commis-
25 sion—

1 “(aa) written notice of that
2 action; and

3 “(bb) a copy of the com-
4 plaint for that action.

5 “(II) EXEMPTION.—Subclause
6 (I) shall not apply with respect to the
7 filing of an action by an attorney gen-
8 eral of a State under this paragraph,
9 if the attorney general determines
10 that it is not feasible to provide the
11 notice described in that subclause be-
12 fore filing of the action. In such case,
13 the attorney general of a State shall
14 provide notice and a copy of the com-
15 plaint to the Federal Trade Commis-
16 sion at the same time as the attorney
17 general files the action.

18 “(B) INTERVENTION.—

19 “(i) IN GENERAL.—On receiving no-
20 tice under subparagraph (A)(ii), the Fed-
21 eral Trade Commission shall have the right
22 to intervene in the action that is the sub-
23 ject of the notice.

24 “(ii) EFFECT OF INTERVENTION.—If
25 the Federal Trade Commission intervenes

1 in an action under subparagraph (A), it
2 shall have the right—

3 “(I) to be heard with respect to
4 any matter that arises in that action;
5 and

6 “(II) to file a petition for appeal.

7 “(C) CONSTRUCTION.—For purposes of
8 bringing any civil action under subparagraph
9 (A), nothing in this subsection shall be con-
10 strued to prevent an attorney general of a State
11 from exercising the powers conferred on the at-
12 torney general by the laws of that State to—

13 “(i) conduct investigations;

14 “(ii) administer oaths or affirmations;

15 or

16 “(iii) compel the attendance of wit-
17 nesses or the production of documentary
18 and other evidence.

19 “(D) ACTIONS BY THE COMMISSION.—In
20 any case in which an action is instituted by or
21 on behalf of the Federal Trade Commission for
22 a violation of paragraph (1), a State may not,
23 during the pendency of that action, institute an
24 action under subparagraph (A) for the same

1 violation against any defendant named in the
2 complaint in that action.

3 “(E) VENUE.—Any action brought under
4 subparagraph (A) may be brought in the dis-
5 trict court of the United States that meets ap-
6 plicable requirements relating to venue under
7 section 1391 of title 28, United States Code.

8 “(F) SERVICE OF PROCESS.—In an action
9 brought under subparagraph (A), process may
10 be served in any district in which the defend-
11 ant—

12 “(i) is an inhabitant; or

13 “(ii) may be found.

14 “(G) MEASUREMENT OF DAMAGES.—In
15 any action under this paragraph to enforce a
16 cause of action under this subsection in which
17 there has been a determination that a defend-
18 ant has violated a provision of this subsection,
19 damages may be proved and assessed in the ag-
20 gregate by statistical or sampling methods, by
21 the computation of illegal overcharges or by
22 such other reasonable system of estimating ag-
23 gregate damages as the court in its discretion
24 may permit without the necessity of separately
25 proving the individual claim of, or amount of

1 damage to, persons on whose behalf the suit
2 was brought.

3 “(H) EXCLUSION ON DUPLICATIVE RE-
4 LIEF.—The district court shall exclude from the
5 amount of monetary relief awarded in an action
6 under this paragraph brought by the attorney
7 general of a State any amount of monetary re-
8 lief which duplicates amounts which have been
9 awarded for the same injury.

10 “(7) EFFECT ON ANTITRUST LAWS.—Nothing
11 in this subsection shall be construed to modify, im-
12 pair, or supersede the operation of the antitrust
13 laws. For the purpose of this subsection, the term
14 ‘antitrust laws’ has the meaning given it in the first
15 section of the Clayton Act, except that it includes
16 section 5 of the Federal Trade Commission Act to
17 the extent that such section 5 applies to unfair
18 methods of competition.

19 “(8) MANUFACTURER.—In this subsection, the
20 term ‘manufacturer’ means any entity, including any
21 affiliate or licensee of that entity, that is engaged
22 in—

23 “(A) the production, preparation, propaga-
24 tion, compounding, conversion, or processing of
25 a prescription drug, either directly or indirectly

1 by extraction from substances of natural origin,
2 or independently by means of chemical syn-
3 thesis, or by a combination of extraction and
4 chemical synthesis; or

5 “(B) the packaging, repackaging, labeling,
6 relabeling, or distribution of a prescription
7 drug.”.

8 (2) PROHIBITED ACTS.—The Federal Food,
9 Drug, and Cosmetic Act is amended—

10 (A) in section 301 (21 U.S.C. 331), by
11 striking paragraph (aa) and inserting the fol-
12 lowing:

13 “(aa)(1) The sale or trade by a pharmacist, or by
14 a business organization of which the pharmacist is a part,
15 of a qualifying drug that under section 804(a)(2)(A) was
16 imported by the pharmacist, other than—

17 “(A) a sale at retail made pursuant to dis-
18 pensing the drug to a customer of the pharmacist or
19 organization; or

20 “(B) a sale or trade of the drug to a pharmacy
21 or a wholesaler registered to import drugs under sec-
22 tion 804.

23 “(2) The sale or trade by an individual of a qualifying
24 drug that under section 804(a)(2)(B) was imported by the
25 individual.

1 “(3) The making of a materially false, fictitious, or
2 fraudulent statement or representation, or a material
3 omission, in a notice under clause (i) of section
4 804(g)(2)(B) or in an application required under section
5 804(g)(2)(F), or the failure to submit such a notice or
6 application.

7 “(4) The importation of a drug in violation of a reg-
8 istration condition or other requirement under section
9 804, the falsification of any record required to be main-
10 tained, or provided to the Secretary, under such section,
11 or the violation of any registration condition or other re-
12 quirement under such section.”; and

13 (B) in section 303(a) (21 U.S.C. 333(a)),
14 by striking paragraph (6) and inserting the fol-
15 lowing:

16 “(6) Notwithstanding subsection (a), any person that
17 knowingly violates section 301(i) (2) or (3) or section
18 301(aa)(4) shall be imprisoned not more than 10 years,
19 or fined in accordance with title 18, United States Code,
20 or both.”.

21 (3) AMENDMENT OF CERTAIN PROVISIONS.—

22 (A) IN GENERAL.—Section 801 of the Fed-
23 eral Food, Drug, and Cosmetic Act (21 U.S.C.
24 381) is amended by striking subsection (g) and
25 inserting the following:

1 “(g) With respect to a prescription drug that is im-
2 ported or offered for import into the United States by an
3 individual who is not in the business of such importation,
4 that is not shipped by a registered exporter under section
5 804, and that is refused admission under subsection (a),
6 the Secretary shall notify the individual that—

7 “(1) the drug has been refused admission be-
8 cause the drug was not a lawful import under sec-
9 tion 804;

10 “(2) the drug is not otherwise subject to a
11 waiver of the requirements of subsection (a);

12 “(3) the individual may under section 804 law-
13 fully import certain prescription drugs from export-
14 ers registered with the Secretary under section 804;
15 and

16 “(4) the individual can find information about
17 such importation, including a list of registered ex-
18 porters, on the Internet website of the Food and
19 Drug Administration or through a toll-free telephone
20 number required under section 804.”.

21 (B) ESTABLISHMENT REGISTRATION.—

22 Section 510(i) of the Federal Food, Drug, and
23 Cosmetic Act (21 U.S.C. 360(i)) is amended in
24 paragraph (1) by inserting after “import into
25 the United States” the following: “, including a

1 drug that is, or may be, imported or offered for
2 import into the United States under section
3 804,”.

4 (C) EFFECTIVE DATE.—The amendments
5 made by this subsection shall take effect on the
6 date that is 90 days after the date of enactment
7 of this Act.

8 (4) EXHAUSTION.—

9 (A) IN GENERAL.—Section 271 of title 35,
10 United States Code, is amended—

11 (i) by redesignating subsections (h)
12 and (i) as (i) and (j), respectively; and

13 (ii) by inserting after subsection (g)
14 the following:

15 “(h) It shall not be an act of infringement to use,
16 offer to sell, or sell within the United States or to import
17 into the United States any patented invention under sec-
18 tion 804 of the Federal Food, Drug, and Cosmetic Act
19 that was first sold abroad by or under authority of the
20 owner or licensee of such patent.”.

21 (B) RULE OF CONSTRUCTION.—Nothing in
22 the amendment made by subparagraph (A)
23 shall be construed to affect the ability of a pat-
24 ent owner or licensee to enforce their patent,
25 subject to such amendment.

1 (5) EFFECT OF SECTION 804.—

2 (A) IN GENERAL.—Section 804 of the Fed-
3 eral Food, Drug, and Cosmetic Act, as added
4 by subsection (a), shall permit the importation
5 of qualifying drugs (as defined in such section
6 804) into the United States without regard to
7 the status of the issuance of implementing reg-
8 ulations—

9 (i) from exporters registered under
10 such section 804 on the date that is 90
11 days after the date of enactment of this
12 Act; and

13 (ii) from permitted countries, as de-
14 fined in such section 804, by importers
15 registered under such section 804 on the
16 date that is 1 year after the date of enact-
17 ment of this Act.

18 (B) REVIEW OF REGISTRATION BY CER-
19 TAIN EXPORTERS.—

20 (i) REVIEW PRIORITY.—In the review
21 of registrations submitted under subsection
22 (b) of such section 804, registrations sub-
23 mitted by entities in Canada that are sig-
24 nificant exporters of prescription drugs to
25 individuals in the United States as of the

1 date of enactment of this Act will have pri-
2 ority during the 90-day period that begins
3 on such date of enactment.

4 (ii) PERIOD FOR REVIEW.—During
5 such 90-day period, the reference in sub-
6 section (b)(2)(A) of such section 804 to 90
7 days (relating to approval or disapproval of
8 registrations) is, as applied to such enti-
9 ties, deemed to be 30 days.

10 (iii) LIMITATION.—That an exporter
11 in Canada exports, or has exported, pre-
12 scription drugs to individuals in the United
13 States on or before the date that is 90
14 days after the date of enactment of this
15 Act shall not serve as a basis, in whole or
16 in part, for disapproving a registration
17 under such section 804 from the exporter.

18 (iv) FIRST YEAR LIMIT ON NUMBER
19 OF EXPORTERS.—During the 1-year period
20 beginning on the date of enactment of this
21 Act, the Secretary of Health and Human
22 Services (referred to in this section as the
23 “Secretary”) may limit the number of reg-
24 istered exporters under such section 804 to
25 not less than 50, so long as the Secretary

1 gives priority to those exporters with dem-
2 onstrated ability to process a high volume
3 of shipments of drugs to individuals in the
4 United States.

5 (v) SECOND YEAR LIMIT ON NUMBER
6 OF EXPORTERS.—During the 1-year period
7 beginning on the date that is 1 year after
8 the date of enactment of this Act, the Sec-
9 retary may limit the number of registered
10 exporters under such section 804 to not
11 less than 100, so long as the Secretary
12 gives priority to those exporters with dem-
13 onstrated ability to process a high volume
14 of shipments of drugs to individuals in the
15 United States.

16 (vi) FURTHER LIMIT ON NUMBER OF
17 EXPORTERS.—During any 1-year period
18 beginning on a date that is 2 or more
19 years after the date of enactment of this
20 Act, the Secretary may limit the number of
21 registered exporters under such section
22 804 to not less than 25 more than the
23 number of such exporters during the pre-
24 vious 1-year period, so long as the Sec-
25 retary gives priority to those exporters

1 with demonstrated ability to process a high
2 volume of shipments of drugs to individ-
3 uals in the United States.

4 (C) LIMITS ON NUMBER OF IMPORTERS.—

5 (i) FIRST YEAR LIMIT ON NUMBER OF
6 IMPORTERS.—During the 1-year period be-
7 ginning on the date that is 1 year after the
8 date of enactment of this Act, the Sec-
9 retary may limit the number of registered
10 importers under such section 804 to not
11 less than 100 (of which at least a signifi-
12 cant number shall be groups of phar-
13 macies, to the extent feasible given the ap-
14 plications submitted by such groups), so
15 long as the Secretary gives priority to
16 those importers with demonstrated ability
17 to process a high volume of shipments of
18 drugs imported into the United States.

19 (ii) SECOND YEAR LIMIT ON NUMBER
20 OF IMPORTERS.—During the 1-year period
21 beginning on the date that is 2 years after
22 the date of enactment of this Act, the Sec-
23 retary may limit the number of registered
24 importers under such section 804 to not
25 less than 200 (of which at least a signifi-

1 cant number shall be groups of phar-
2 macies, to the extent feasible given the ap-
3 plications submitted by such groups), so
4 long as the Secretary gives priority to
5 those importers with demonstrated ability
6 to process a high volume of shipments of
7 drugs into the United States.

8 (iii) FURTHER LIMIT ON NUMBER OF
9 IMPORTERS.—During any 1-year period
10 beginning on a date that is 3 or more
11 years after the date of enactment of this
12 Act, the Secretary may limit the number of
13 registered importers under such section
14 804 to not less than 50 more (of which at
15 least a significant number shall be groups
16 of pharmacies, to the extent feasible given
17 the applications submitted by such groups)
18 than the number of such importers during
19 the previous 1-year period, so long as the
20 Secretary gives priority to those importers
21 with demonstrated ability to process a high
22 volume of shipments of drugs to the
23 United States.

24 (D) NOTICES FOR DRUGS FOR IMPORT
25 FROM CANADA.—The notice with respect to a

1 qualifying drug introduced for commercial dis-
2 tribution in Canada as of the date of enactment
3 of this Act that is required under subsection
4 (g)(2)(B)(i) of such section 804 shall be sub-
5 mitted to the Secretary not later than 30 days
6 after the date of enactment of this Act if—

7 (i) the U.S. label drug (as defined in
8 such section 804) for the qualifying drug is
9 1 of the 100 prescription drugs with the
10 highest dollar volume of sales in the
11 United States based on the 12 calendar
12 month period most recently completed be-
13 fore the date of enactment of this Act; or

14 (ii) the notice is a notice under sub-
15 section (g)(2)(B)(i)(II) of such section
16 804.

17 (E) NOTICE FOR DRUGS FOR IMPORT
18 FROM OTHER COUNTRIES.—The notice with re-
19 spect to a qualifying drug introduced for com-
20 mercial distribution in a permitted country
21 other than Canada as of the date of enactment
22 of this Act that is required under subsection
23 (g)(2)(B)(i) of such section 804 shall be sub-
24 mitted to the Secretary not later than 180 days
25 after the date of enactment of this Act if—

1 (i) the U.S. label drug for the quali-
2 fying drug is 1 of the 100 prescription
3 drugs with the highest dollar volume of
4 sales in the United States based on the 12
5 calendar month period that is first com-
6 pleted on the date that is 120 days after
7 the date of enactment of this Act; or

8 (ii) the notice is a notice under sub-
9 section (g)(2)(B)(i)(II) of such section
10 804.

11 (F) NOTICE FOR OTHER DRUGS FOR IM-
12 PORT.—

13 (i) GUIDANCE ON SUBMISSION
14 DATES.—The Secretary shall by guidance
15 establish a series of submission dates for
16 the notices under subsection (g)(2)(B)(i) of
17 such section 804 with respect to qualifying
18 drugs introduced for commercial distribu-
19 tion as of the date of enactment of this Act
20 and that are not required to be submitted
21 under paragraph (4) or (5).

22 (ii) CONSISTENT AND EFFICIENT USE
23 OF RESOURCES.—The Secretary shall es-
24 tablish the dates described under subpara-
25 graph (A) so that such notices described

1 under subparagraph (A) are submitted and
2 reviewed at a rate that allows consistent
3 and efficient use of the resources and staff
4 available to the Secretary for such reviews.
5 The Secretary may condition the require-
6 ment to submit such a notice, and the re-
7 view of such a notice, on the submission by
8 a registered exporter or a registered im-
9 porter to the Secretary of a notice that
10 such exporter or importer intends to im-
11 port such qualifying drug to the United
12 States under such section 804.

13 (iii) PRIORITY FOR DRUGS WITH
14 HIGHER SALES.—The Secretary shall es-
15 tablish the dates described under subpara-
16 graph (A) so that the Secretary reviews
17 the notices described under such subpara-
18 graph with respect to qualifying drugs with
19 higher dollar volume of sales in the United
20 States before the notices with respect to
21 drugs with lower sales in the United
22 States.

23 (G) NOTICES FOR DRUGS APPROVED
24 AFTER EFFECTIVE DATE.—The notice required
25 under subsection (g)(2)(B)(i) of such section

1 804 for a qualifying drug first introduced for
2 commercial distribution in a permitted country
3 (as defined in such section 804) after the date
4 of enactment of this Act shall be submitted to
5 and reviewed by the Secretary as provided
6 under subsection (g)(2)(B) of such section 804,
7 without regard to paragraph (4), (5), or (6).

8 (H) REPORT.—Beginning with the first
9 full fiscal year after the date of enactment of
10 this Act, not later than 90 days after the end
11 of each fiscal year during which the Secretary
12 reviews a notice referred to in subparagraph
13 (D), (E), or (F), the Secretary shall submit a
14 report to Congress concerning the progress of
15 the Food and Drug Administration in reviewing
16 the notices referred to in such subparagraphs.

17 (I) USER FEES.—

18 (i) EXPORTERS.—When establishing
19 an aggregate total of fees to be collected
20 from exporters under subsection (f)(2) of
21 such section 804, the Secretary shall,
22 under subsection (f)(3)(C)(i) of such sec-
23 tion 804, estimate the total price of drugs
24 imported under subsection (a) of such sec-
25 tion 804 into the United States by reg-

1 istered exporters during the first fiscal
2 year in which this Act takes effect to be an
3 amount equal to the amount which bears
4 the same ratio to \$1,000,000,000 as the
5 number of days in such fiscal year during
6 which this Act is effective bears to 365.

7 (ii) IMPORTERS.—When establishing
8 an aggregate total of fees to be collected
9 from importers under subsection (e)(2) of
10 such section 804, the Secretary shall,
11 under subsection (e)(3)(C)(i) of such sec-
12 tion 804, estimate the total price of drugs
13 imported under subsection (a) of such sec-
14 tion 804 into the United States by reg-
15 istered importers during—

16 (I) the first fiscal year in which
17 this Act takes effect to be an amount
18 equal to the amount which bears the
19 same ratio to \$1,000,000,000 as the
20 number of days in such fiscal year
21 during which this Act is effective
22 bears to 365; and

23 (II) the second fiscal year in
24 which this Act is in effect to be
25 \$3,000,000,000.

1 (iii) SECOND YEAR ADJUSTMENT.—

2 (I) REPORTS.—Not later than
3 February 20 of the second fiscal year
4 in which this Act is in effect, reg-
5 istered importers shall report to the
6 Secretary the total price and the total
7 volume of drugs imported to the
8 United States by the importer during
9 the 4-month period from October 1
10 through January 31 of such fiscal
11 year.

12 (II) REESTIMATE.—Notwith-
13 standing subsection (e)(3)(C)(ii) of
14 such section 804 or subparagraph
15 (B), the Secretary shall reestimate the
16 total price of qualifying drugs im-
17 ported under subsection (a) of such
18 section 804 into the United States by
19 registered importers during the second
20 fiscal year in which this Act is in ef-
21 fect. Such reestimate shall be equal
22 to—

23 (aa) the total price of quali-
24 fying drugs imported by each im-

1 porter as reported under clause
2 (i); multiplied by

3 (bb) 3.

4 (III) ADJUSTMENT.—The Sec-
5 retary shall adjust the fee due on
6 April 1 of the second fiscal year in
7 which this Act is in effect, from each
8 importer so that the aggregate total of
9 fees collected under subsection (e)(2)
10 for such fiscal year does not exceed
11 the total price of qualifying drugs im-
12 ported under subsection (a) of such
13 section 804 into the United States by
14 registered importers during such fiscal
15 year as reestimated under clause (ii).

16 (iv) FAILURE TO PAY FEES.—Not-
17 withstanding any other provision of this
18 subsection, the Secretary may prohibit a
19 registered importer or exporter that is re-
20 quired to pay user fees under subsection
21 (e) or (f) of such section 804 and that fails
22 to pay such fees within 30 days after the
23 date on which it is due, from importing or
24 offering for importation a qualifying drug

1 under such section 804 until such fee is
2 paid.

3 (v) ANNUAL REPORT.—

4 (I) FOOD AND DRUG ADMINIS-
5 TRATION.—Not later than 180 days
6 after the end of each fiscal year dur-
7 ing which fees are collected under
8 subsection (e), (f), or (g)(2)(B)(iv) of
9 such section 804, the Secretary shall
10 prepare and submit to the House of
11 Representatives and the Senate a re-
12 port on the implementation of the au-
13 thority for such fees during such fis-
14 cal year and the use, by the Food and
15 Drug Administration, of the fees col-
16 lected for the fiscal year for which the
17 report is made and credited to the
18 Food and Drug Administration.

19 (II) CUSTOMS AND BORDER CON-
20 TROL.—Not later than 180 days after
21 the end of each fiscal year during
22 which fees are collected under sub-
23 section (e) or (f) of such section 804,
24 the Secretary of Homeland Security,
25 in consultation with the Secretary of

1 the Treasury, shall prepare and sub-
2 mit to the House of Representatives
3 and the Senate a report on the use,
4 by the Bureau of Customs and Border
5 Protection, of the fees, if any, trans-
6 ferred by the Secretary to the Bureau
7 of Customs and Border Protection for
8 the fiscal year for which the report is
9 made.

10 (J) SPECIAL RULE REGARDING IMPORTA-
11 TION BY INDIVIDUALS.—

12 (i) IN GENERAL.—Notwithstanding
13 any provision of this Act (or an amend-
14 ment made by this Act), the Secretary
15 shall expedite the designation of any addi-
16 tional countries from which an individual
17 may import a qualifying drug into the
18 United States under such section 804 if
19 any action implemented by the Government
20 of Canada has the effect of limiting or pro-
21 hibiting the importation of qualifying
22 drugs into the United States from Canada.

23 (ii) TIMING AND CRITERIA.—The Sec-
24 retary shall designate such additional
25 countries under clause (i)—

1 (I) not later than 6 months after
2 the date of the action by the Govern-
3 ment of Canada described under such
4 subparagraph; and

5 (II) using the criteria described
6 under subsection (a)(4)(D)(i)(II) of
7 such section 804.

8 (6) IMPLEMENTATION OF SECTION 804.—

9 (A) INTERIM RULE.—The Secretary may
10 promulgate an interim rule for implementing
11 section 804 of the Federal Food, Drug, and
12 Cosmetic Act, as added by subsection (a) of this
13 section.

14 (B) NO NOTICE OF PROPOSED RULE-
15 MAKING.—The interim rule described under
16 paragraph (1) may be developed and promul-
17 gated by the Secretary without providing gen-
18 eral notice of proposed rulemaking.

19 (C) FINAL RULE.—Not later than 1 year
20 after the date on which the Secretary promul-
21 gates an interim rule under subparagraph (A),
22 the Secretary shall, in accordance with proce-
23 dures under section 553 of title 5, United
24 States Code, promulgate a final rule for imple-
25 menting such section 804, which may incor-

1 porate by reference provisions of the interim
2 rule provided for under subparagraph (A), to
3 the extent that such provisions are not modi-
4 fied.

5 (7) CONSUMER EDUCATION.—The Secretary
6 shall carry out activities that educate consumers—

7 (A) with regard to the availability of quali-
8 fying drugs for import for personal use from an
9 exporter registered with and approved by the
10 Food and Drug Administration under section
11 804 of the Federal Food, Drug, and Cosmetic
12 Act, as added by this section, including infor-
13 mation on how to verify whether an exporter is
14 registered and approved by use of the Internet
15 website of the Food and Drug Administration
16 and the toll-free telephone number required by
17 this Act;

18 (B) that drugs that consumers attempt to
19 import from an exporter that is not registered
20 with and approved by the Food and Drug Ad-
21 ministration can be seized by the United States
22 Customs Service and destroyed, and that such
23 drugs may be counterfeit, unapproved, unsafe,
24 or ineffective;

1 (C) with regard to the suspension and ter-
2 mination of any registration of a registered im-
3 porter or exporter under such section 804; and

4 (D) with regard to the availability at do-
5 mestic retail pharmacies of qualifying drugs im-
6 ported under such section 804 by domestic
7 wholesalers and pharmacies registered with and
8 approved by the Food and Drug Administra-
9 tion.

10 (8) EFFECT ON ADMINISTRATION PRACTICES.—

11 Notwithstanding any provision of this Act (and the
12 amendments made by this Act), the practices and
13 policies of the Food and Drug Administration and
14 Bureau of Customs and Border Protection, in effect
15 on January 1, 2004, with respect to the importation
16 of prescription drugs into the United States by an
17 individual, on the person of such individual, for per-
18 sonal use, shall remain in effect.

19 (9) REPORT TO CONGRESS.—The Federal

20 Trade Commission shall, on an annual basis, submit
21 to Congress a report that describes any action taken
22 during the period for which the report is being pre-
23 pared to enforce the provisions of section 804(n) of
24 the Federal Food, Drug, and Cosmetic Act (as

1 added by this Act), including any pending investiga-
2 tions or civil actions under such section.

3 (e) DISPOSITION OF CERTAIN DRUGS DENIED AD-
4 MISSION INTO UNITED STATES.—

5 (1) IN GENERAL.—Chapter VIII of the Federal
6 Food, Drug, and Cosmetic Act (21 U.S.C. 381 et
7 seq.), as amended by section 4, is further amended
8 by adding at the end the following section:

9 **“SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED AD-
10 MISSION.**

11 “(a) IN GENERAL.—The Secretary of Homeland Se-
12 curity shall deliver to the Secretary a shipment of drugs
13 that is imported or offered for import into the United
14 States if—

15 “(1) the shipment has a declared value of less
16 than \$10,000; and

17 “(2)(A) the shipping container for such drugs
18 does not bear the markings required under section
19 804(d)(2); or

20 “(B) the Secretary has requested delivery of
21 such shipment of drugs.

22 “(b) NO BOND OR EXPORT.—Section 801(b) does
23 not authorize the delivery to the owner or consignee of
24 drugs delivered to the Secretary under subsection (a) pur-

1 suant to the execution of a bond, and such drugs may not
2 be exported.

3 “(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The
4 Secretary shall destroy a shipment of drugs delivered by
5 the Secretary of Homeland Security to the Secretary
6 under subsection (a) if—

7 “(1) in the case of drugs that are imported or
8 offered for import from a registered exporter under
9 section 804, the drugs are in violation of any stand-
10 ard described in section 804(g)(5); or

11 “(2) in the case of drugs that are not imported
12 or offered for import from a registered exporter
13 under section 804, the drugs are in violation of a
14 standard referred to in section 801(a) or 801(d)(1).

15 “(d) CERTAIN PROCEDURES.—

16 “(1) IN GENERAL.—The delivery and destruc-
17 tion of drugs under this section may be carried out
18 without notice to the importer, owner, or consignee
19 of the drugs except as required by section 801(g) or
20 section 804(i)(2). The issuance of receipts for the
21 drugs, and recordkeeping activities regarding the
22 drugs, may be carried out on a summary basis.

23 “(2) OBJECTIVE OF PROCEDURES.—Procedures
24 promulgated under paragraph (1) shall be designed
25 toward the objective of ensuring that, with respect to

1 efficiently utilizing Federal resources available for
2 carrying out this section, a substantial majority of
3 shipments of drugs subject to described in sub-
4 section (c) are identified and destroyed.

5 “(e) EVIDENCE EXCEPTION.—Drugs may not be de-
6 stroyed under subsection (c) to the extent that the Attor-
7 ney General of the United States determines that the
8 drugs should be preserved as evidence or potential evi-
9 dence with respect to an offense against the United States.

10 “(f) RULE OF CONSTRUCTION.—This section may
11 not be construed as having any legal effect on applicable
12 law with respect to a shipment of drugs that is imported
13 or offered for import into the United States and has a
14 declared value equal to or greater than \$10,000.”.

15 (2) PROCEDURES.—Procedures for carrying out
16 section 805 of the Federal Food, Drug, and Cos-
17 metic Act, as added by subsection (a), shall be es-
18 tablished not later than 90 days after the date of the
19 enactment of this Act.

20 (3) EFFECTIVE DATE.—The amendments made
21 by this section shall take effect on the date that is
22 90 days after the date of enactment of this Act.

23 (f) WHOLESALE DISTRIBUTION OF DRUGS; STATE-
24 MENTS REGARDING PRIOR SALE, PURCHASE, OR
25 TRADE.—

1 (1) STRIKING OF EXEMPTIONS; APPLICABILITY
2 TO REGISTERED EXPORTERS.—Section 503(e) of the
3 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
4 353(e)) is amended—

5 (A) in paragraph (1)—

6 (i) by striking “and who is not the
7 manufacturer or an authorized distributor
8 of record of such drug”;

9 (ii) by striking “to an authorized dis-
10 tributor of record or”; and

11 (iii) by striking subparagraph (B) and
12 inserting the following:

13 “(B) The fact that a drug subject to subsection (b)
14 is exported from the United States does not with respect
15 to such drug exempt any person that is engaged in the
16 business of the wholesale distribution of the drug from
17 providing the statement described in subparagraph (A) to
18 the person that receives the drug pursuant to the export
19 of the drug.

20 “(C)(i) The Secretary shall by regulation establish re-
21 quirements that supersede subparagraph (A) (referred to
22 in this subparagraph as ‘alternative requirements’) to
23 identify the chain of custody of a drug subject to sub-
24 section (b) from the manufacturer of the drug throughout
25 the wholesale distribution of the drug to a pharmacist who

1 intends to sell the drug at retail if the Secretary deter-
2 mines that the alternative requirements, which may in-
3 clude standardized anti-counterfeiting or track-and-trace
4 technologies, will identify such chain of custody or the
5 identity of the discrete package of the drug from which
6 the drug is dispensed with equal or greater certainty to
7 the requirements of subparagraph (A), and that the alter-
8 native requirements are economically and technically fea-
9 sible.

10 “(ii) When the Secretary promulgates a final rule to
11 establish such alternative requirements, the final rule in
12 addition shall, with respect to the registration condition
13 established in clause (i) of section 804(c)(3)(B), establish
14 a condition equivalent to the alternative requirements, and
15 such equivalent condition may be met in lieu of the reg-
16 istration condition established in such clause (i).”;

17 (B) in paragraph (2)(A), by adding at the
18 end the following: “The preceding sentence may
19 not be construed as having any applicability
20 with respect to a registered exporter under sec-
21 tion 804.”; and

22 (C) in paragraph (3), by striking “and
23 subsection (d)—” in the matter preceding sub-
24 paragraph (A) and all that follows through “the
25 term ‘wholesale distribution’ means” in sub-

1 paragraph (B) and inserting the following: “and
2 subsection (d), the term ‘wholesale distribution’
3 means”.

4 (2) CONFORMING AMENDMENT.—Section
5 503(d) of the Federal Food, Drug, and Cosmetic
6 Act (21 U.S.C. 353(d)) is amended by adding at the
7 end the following:

8 “(4) Each manufacturer of a drug subject to sub-
9 section (b) shall maintain at its corporate offices a current
10 list of the authorized distributors of record of such drug.

11 “(5) For purposes of this subsection, the term ‘au-
12 thorized distributors of record’ means those distributors
13 with whom a manufacturer has established an ongoing re-
14 lationship to distribute such manufacturer’s products.”.

15 (3) EFFECTIVE DATE.—

16 (A) IN GENERAL.—The amendments made
17 by subparagraphs (A) and (C) of paragraph (1)
18 and by paragraph (2) shall take effect on Janu-
19 ary 1, 2012.

20 (B) DRUGS IMPORTED BY REGISTERED IM-
21 PORTERS UNDER SECTION 804.—Notwith-
22 standing subparagraph (A), the amendments
23 made by subparagraphs (A) and (C) of para-
24 graph (1) and by paragraph (2) shall take ef-
25 fect on the date that is 90 days after the date

1 of enactment of this Act with respect to quali-
2 fying drugs imported under section 804 of the
3 Federal Food, Drug, and Cosmetic Act, as
4 added by subsection (d).

5 (C) EFFECT WITH RESPECT TO REG-
6 ISTERED EXPORTERS.—The amendment made
7 by paragraph (1)(B) shall take effect on the
8 date that is 90 days after the date of enactment
9 of this Act.

10 (D) ALTERNATIVE REQUIREMENTS.—The
11 Secretary shall issue regulations to establish the
12 alternative requirements, referred to in the
13 amendment made by paragraph (1)(A), that
14 take effect not later than January 1, 2012.

15 (E) INTERMEDIATE REQUIREMENTS.—The
16 Secretary shall by regulation require the use of
17 standardized anti-counterfeiting or track-and-
18 trace technologies on prescription drugs at the
19 case and pallet level effective not later than 1
20 year after the date of enactment of this Act.

21 (F) ADDITIONAL REQUIREMENTS.—

22 (i) IN GENERAL.—Notwithstanding
23 any other provision of this subsection, the
24 Secretary shall, not later than 18 months
25 after the date of enactment of this Act, re-

1 require that the packaging of any prescrip-
2 tion drug incorporates—

3 (I) a standardized numerical
4 identifier unique to each package of
5 such drug, applied at the point of
6 manufacturing and repackaging (in
7 which case the numerical identifier
8 shall be linked to the numerical iden-
9 tifier applied at the point of manufac-
10 turing); and

11 (II)(aa) overt optically variable
12 counterfeit-resistant technologies
13 that—

14 (AA) are visible to the
15 naked eye, providing for visual
16 identification of product authen-
17 ticity without the need for read-
18 ers, microscopes, lighting devices,
19 or scanners;

20 (BB) are similar to that
21 used by the Bureau of Engraving
22 and Printing to secure United
23 States currency;

24 (CC) are manufactured and
25 distributed in a highly secure,

1 tightly controlled environment;
2 and

3 (DD) incorporate additional
4 layers of nonvisible covert secu-
5 rity features up to and including
6 forensic capability, as described
7 in subparagraph (B); or

8 (bb) technologies that have a
9 function of security comparable to
10 that described in item (aa), as deter-
11 mined by the Secretary.

12 (ii) STANDARDS FOR PACKAGING.—

13 For the purpose of making it more difficult
14 to counterfeit the packaging of drugs sub-
15 ject to this paragraph, the manufacturers
16 of such drugs shall incorporate the tech-
17 nologies described in clause (i) into at least
18 1 additional element of the physical pack-
19 aging of the drugs, including blister packs,
20 shrink wrap, package labels, package seals,
21 bottles, and boxes.

22 (g) INTERNET SALES OF PRESCRIPTION DRUGS.—

23 (1) IN GENERAL.—Chapter V of the Federal
24 Food, Drug, and Cosmetic Act (21 U.S.C. 351 et

1 seq.) is amended by inserting after section 503B the
2 following:

3 **“SEC. 503C. INTERNET SALES OF PRESCRIPTION DRUGS.**

4 “(a) REQUIREMENTS REGARDING INFORMATION ON
5 INTERNET SITE.—

6 “(1) IN GENERAL.—A person may not dispense
7 a prescription drug pursuant to a sale of the drug
8 by such person if—

9 “(A) the purchaser of the drug submitted
10 the purchase order for the drug, or conducted
11 any other part of the sales transaction for the
12 drug, through an Internet site;

13 “(B) the person dispenses the drug to the
14 purchaser by mailing or shipping the drug to
15 the purchaser; and

16 “(C) such site, or any other Internet site
17 used by such person for purposes of sales of a
18 prescription drug, fails to meet each of the re-
19 quirements specified in paragraph (2), other
20 than a site or pages on a site that—

21 “(i) are not intended to be accessed
22 by purchasers or prospective purchasers; or

23 “(ii) provide an Internet information
24 location tool within the meaning of section

1 231(e)(5) of the Communications Act of
2 1934 (47 U.S.C. 231(e)(5)).

3 “(2) REQUIREMENTS.—With respect to an
4 Internet site, the requirements referred to in sub-
5 paragraph (C) of paragraph (1) for a person to
6 whom such paragraph applies are as follows:

7 “(A) Each page of the site shall include ei-
8 ther the following information or a link to a
9 page that provides the following information:

10 “(i) The name of such person.

11 “(ii) Each State in which the person
12 is authorized by law to dispense prescrip-
13 tion drugs.

14 “(iii) The address and telephone num-
15 ber of each place of business of the person
16 with respect to sales of prescription drugs
17 through the Internet, other than a place of
18 business that does not mail or ship pre-
19 scription drugs to purchasers.

20 “(iv) The name of each individual who
21 serves as a pharmacist for prescription
22 drugs that are mailed or shipped pursuant
23 to the site, and each State in which the in-
24 dividual is authorized by law to dispense
25 prescription drugs.

1 “(v) If the person provides for medical
2 consultations through the site for purposes
3 of providing prescriptions, the name of
4 each individual who provides such con-
5 sultations; each State in which the indi-
6 vidual is licensed or otherwise authorized
7 by law to provide such consultations or
8 practice medicine; and the type or types of
9 health professions for which the individual
10 holds such licenses or other authorizations.

11 “(B) A link to which paragraph (1) applies
12 shall be displayed in a clear and prominent
13 place and manner, and shall include in the cap-
14 tion for the link the words ‘licensing and con-
15 tact information’.

16 “(b) INTERNET SALES WITHOUT APPROPRIATE
17 MEDICAL RELATIONSHIPS.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), a person may not dispense a prescription
20 drug, or sell such a drug, if—

21 “(A) for purposes of such dispensing or
22 sale, the purchaser communicated with the per-
23 son through the Internet;

24 “(B) the patient for whom the drug was
25 dispensed or purchased did not, when such

1 communications began, have a prescription for
2 the drug that is valid in the United States;

3 “(C) pursuant to such communications, the
4 person provided for the involvement of a practi-
5 tioner, or an individual represented by the per-
6 son as a practitioner, and the practitioner or
7 such individual issued a prescription for the
8 drug that was purchased;

9 “(D) the person knew, or had reason to
10 know, that the practitioner or the individual re-
11 ferred to in subparagraph (C) did not, when
12 issuing the prescription, have a qualifying med-
13 ical relationship with the patient; and

14 “(E) the person received payment for the
15 dispensing or sale of the drug.

16 For purposes of subparagraph (E), payment is re-
17 ceived if money or other valuable consideration is re-
18 ceived.

19 “(2) EXCEPTIONS.—Paragraph (1) does not
20 apply to—

21 “(A) the dispensing or selling of a pre-
22 scription drug pursuant to telemedicine prac-
23 tices sponsored by—

24 “(i) a hospital that has in effect a
25 provider agreement under title XVIII of

1 the Social Security Act (relating to the
2 Medicare program); or

3 “(ii) a group practice that has not
4 fewer than 100 physicians who have in ef-
5 fect provider agreements under such title;
6 or

7 “(B) the dispensing or selling of a pre-
8 scription drug pursuant to practices that pro-
9 mote the public health, as determined by the
10 Secretary by regulation.

11 “(3) QUALIFYING MEDICAL RELATIONSHIP.—

12 “(A) IN GENERAL.—With respect to
13 issuing a prescription for a drug for a patient,
14 a practitioner has a qualifying medical relation-
15 ship with the patient for purposes of this sec-
16 tion if—

17 “(i) at least one in-person medical
18 evaluation of the patient has been con-
19 ducted by the practitioner; or

20 “(ii) the practitioner conducts a med-
21 ical evaluation of the patient as a covering
22 practitioner.

23 “(B) IN-PERSON MEDICAL EVALUATION.—
24 A medical evaluation by a practitioner is an in-
25 person medical evaluation for purposes of this

1 section if the practitioner is in the physical
2 presence of the patient as part of conducting
3 the evaluation, without regard to whether por-
4 tions of the evaluation are conducted by other
5 health professionals.

6 “(C) COVERING PRACTITIONER.—With re-
7 spect to a patient, a practitioner is a covering
8 practitioner for purposes of this section if the
9 practitioner conducts a medical evaluation of
10 the patient at the request of a practitioner who
11 has conducted at least one in-person medical
12 evaluation of the patient and is temporarily un-
13 available to conduct the evaluation of the pa-
14 tient. A practitioner is a covering practitioner
15 without regard to whether the practitioner has
16 conducted any in-person medical evaluation of
17 the patient involved.

18 “(4) RULES OF CONSTRUCTION.—

19 “(A) INDIVIDUALS REPRESENTED AS
20 PRACTITIONERS.—A person who is not a practi-
21 tioner (as defined in subsection (e)(1)) lacks
22 legal capacity under this section to have a
23 qualifying medical relationship with any patient.

24 “(B) STANDARD PRACTICE OF PHAR-
25 MACY.—Paragraph (1) may not be construed as

1 prohibiting any conduct that is a standard prac-
2 tice in the practice of pharmacy.

3 “(C) APPLICABILITY OF REQUIRE-
4 MENTS.—Paragraph (3) may not be construed
5 as having any applicability beyond this section,
6 and does not affect any State law, or interpre-
7 tation of State law, concerning the practice of
8 medicine.

9 “(c) ACTIONS BY STATES.—

10 “(1) IN GENERAL.—Whenever an attorney gen-
11 eral of any State has reason to believe that the in-
12 terests of the residents of that State have been or
13 are being threatened or adversely affected because
14 any person has engaged or is engaging in a pattern
15 or practice that violates section 301(l), the State
16 may bring a civil action on behalf of its residents in
17 an appropriate district court of the United States to
18 enjoin such practice, to enforce compliance with such
19 section (including a nationwide injunction), to obtain
20 damages, restitution, or other compensation on be-
21 half of residents of such State, to obtain reasonable
22 attorneys fees and costs if the State prevails in the
23 civil action, or to obtain such further and other relief
24 as the court may deem appropriate.

1 “(2) NOTICE.—The State shall serve prior writ-
2 ten notice of any civil action under paragraph (1) or
3 (5)(B) upon the Secretary and provide the Secretary
4 with a copy of its complaint, except that if it is not
5 feasible for the State to provide such prior notice,
6 the State shall serve such notice immediately upon
7 instituting such action. Upon receiving a notice re-
8 specting a civil action, the Secretary shall have the
9 right—

10 “(A) to intervene in such action;

11 “(B) upon so intervening, to be heard on
12 all matters arising therein; and

13 “(C) to file petitions for appeal.

14 “(3) CONSTRUCTION.—For purposes of bring-
15 ing any civil action under paragraph (1), nothing in
16 this chapter shall prevent an attorney general of a
17 State from exercising the powers conferred on the
18 attorney general by the laws of such State to con-
19 duct investigations or to administer oaths or affir-
20 mations or to compel the attendance of witnesses or
21 the production of documentary and other evidence.

22 “(4) VENUE; SERVICE OF PROCESS.—Any civil
23 action brought under paragraph (1) in a district
24 court of the United States may be brought in the
25 district in which the defendant is found, is an inhab-

1 itant, or transacts business or wherever venue is
2 proper under section 1391 of title 28, United States
3 Code. Process in such an action may be served in
4 any district in which the defendant is an inhabitant
5 or in which the defendant may be found.

6 “(5) ACTIONS BY OTHER STATE OFFICIALS.—

7 “(A) Nothing contained in this section
8 shall prohibit an authorized State official from
9 proceeding in State court on the basis of an al-
10 leged violation of any civil or criminal statute of
11 such State.

12 “(B) In addition to actions brought by an
13 attorney general of a State under paragraph
14 (1), such an action may be brought by officers
15 of such State who are authorized by the State
16 to bring actions in such State on behalf of its
17 residents.

18 “(d) EFFECT OF SECTION.—This section shall not
19 apply to a person that is a registered exporter under sec-
20 tion 804.

21 “(e) GENERAL DEFINITIONS.—For purposes of this
22 section:

23 “(1) The term ‘practitioner’ means a practi-
24 tioner referred to in section 503(b)(1) with respect
25 to issuing a written or oral prescription.

1 “(2) The term ‘prescription drug’ means a drug
2 that is described in section 503(b)(1).

3 “(3) The term ‘qualifying medical relationship’,
4 with respect to a practitioner and a patient, has the
5 meaning indicated for such term in subsection (b).

6 “(f) INTERNET-RELATED DEFINITIONS.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion:

9 “(A) The term ‘Internet’ means collectively
10 the myriad of computer and telecommunications
11 facilities, including equipment and operating
12 software, which comprise the interconnected
13 world-wide network of networks that employ the
14 transmission control protocol/internet protocol,
15 or any predecessor or successor protocols to
16 such protocol, to communicate information of
17 all kinds by wire or radio.

18 “(B) The term ‘link’, with respect to the
19 Internet, means one or more letters, words,
20 numbers, symbols, or graphic items that appear
21 on a page of an Internet site for the purpose
22 of serving, when activated, as a method for exe-
23 cuting an electronic command—

1 “(i) to move from viewing one portion
2 of a page on such site to another portion
3 of the page;

4 “(ii) to move from viewing one page
5 on such site to another page on such site;
6 or

7 “(iii) to move from viewing a page on
8 one Internet site to a page on another
9 Internet site.

10 “(C) The term ‘page’, with respect to the
11 Internet, means a document or other file
12 accessed at an Internet site.

13 “(D)(i) The terms ‘site’ and ‘address’, with
14 respect to the Internet, mean a specific location
15 on the Internet that is determined by Internet
16 Protocol numbers. Such term includes the do-
17 main name, if any.

18 “(ii) The term ‘domain name’ means a
19 method of representing an Internet address
20 without direct reference to the Internet Protocol
21 numbers for the address, including methods
22 that use designations such as ‘.com’, ‘.edu’,
23 ‘.gov’, ‘.net’, or ‘.org’.

1 “(iii) The term ‘Internet Protocol num-
2 bers’ includes any successor protocol for deter-
3 mining a specific location on the Internet.

4 “(2) AUTHORITY OF SECRETARY.—The Sec-
5 retary may by regulation modify any definition
6 under paragraph (1) to take into account changes in
7 technology.

8 “(g) INTERACTIVE COMPUTER SERVICE; ADVER-
9 TISING.—No provider of an interactive computer service,
10 as defined in section 230(f)(2) of the Communications Act
11 of 1934 (47 U.S.C. 230(f)(2)), or of advertising services
12 shall be liable under this section for dispensing or selling
13 prescription drugs in violation of this section on account
14 of another person’s selling or dispensing such drugs, pro-
15 vided that the provider of the interactive computer service
16 or of advertising services does not own or exercise cor-
17 porate control over such person.”.

18 (2) INCLUSION AS PROHIBITED ACT.—Section
19 301 of the Federal Food, Drug, and Cosmetic Act
20 (21 U.S.C. 331) is amended by inserting after para-
21 graph (k) the following:

22 “(l) The dispensing or selling of a prescription drug
23 in violation of section 503C.”.

24 (3) INTERNET SALES OF PRESCRIPTION DRUGS;
25 CONSIDERATION BY SECRETARY OF PRACTICES AND

1 PROCEDURES FOR CERTIFICATION OF LEGITIMATE
2 BUSINESSES.—In carrying out section 503C of the
3 Federal Food, Drug, and Cosmetic Act (as added by
4 paragraph (1)), the Secretary of Health and Human
5 Services shall take into consideration the practices
6 and procedures of public or private entities that cer-
7 tify that businesses selling prescription drugs
8 through Internet sites are legitimate businesses, in-
9 cluding practices and procedures regarding disclo-
10 sure formats and verification programs.

11 (4) REPORTS REGARDING INTERNET-RELATED
12 VIOLATIONS OF FEDERAL AND STATE LAWS ON DIS-
13 PENSING OF DRUGS.—

14 (A) IN GENERAL.—The Secretary of
15 Health and Human Services (referred to in this
16 paragraph as the “Secretary”) shall, pursuant
17 to the submission of an application meeting the
18 criteria of the Secretary, make an award of a
19 grant or contract to the National Clearinghouse
20 on Internet Prescribing (operated by the Fed-
21 eration of State Medical Boards) for the pur-
22 pose of—

23 (i) identifying Internet sites that ap-
24 pear to be in violation of Federal or State
25 laws concerning the dispensing of drugs;

1 (ii) reporting such sites to State med-
2 ical licensing boards and State pharmacy
3 licensing boards, and to the Attorney Gen-
4 eral and the Secretary, for further inves-
5 tigation; and

6 (iii) submitting, for each fiscal year
7 for which the award under this subsection
8 is made, a report to the Secretary describ-
9 ing investigations undertaken with respect
10 to violations described in clause (i).

11 (B) AUTHORIZATION OF APPROPRIA-
12 TIONS.—For the purpose of carrying out sub-
13 paragraph (A), there is authorized to be appro-
14 priated \$100,000 for each of the first 3 fiscal
15 years in which this section is in effect.

16 (5) EFFECTIVE DATE.—The amendments made
17 by paragraphs (1) and (2) take effect 90 days after
18 the date of enactment of this Act, without regard to
19 whether a final rule to implement such amendments
20 has been promulgated by the Secretary of Health
21 and Human Services under section 701(a) of the
22 Federal Food, Drug, and Cosmetic Act. The pre-
23 ceding sentence may not be construed as affecting
24 the authority of such Secretary to promulgate such
25 a final rule.

1 (h) PROHIBITING PAYMENTS TO UNREGISTERED
2 FOREIGN PHARMACIES.—

3 (1) IN GENERAL.—Section 303 of the Federal
4 Food, Drug, and Cosmetic Act (21 U.S.C. 333) is
5 amended by adding at the end the following:

6 “(h) RESTRICTED TRANSACTIONS.—

7 “(1) IN GENERAL.—The introduction of re-
8 stricted transactions into a payment system or the
9 completion of restricted transactions using a pay-
10 ment system is prohibited.

11 “(2) PAYMENT SYSTEM.—

12 “(A) IN GENERAL.—The term ‘payment
13 system’ means a system used by a person de-
14 scribed in subparagraph (B) to effect a credit
15 transaction, electronic fund transfer, or money
16 transmitting service that may be used in con-
17 nection with, or to facilitate, a restricted trans-
18 action, and includes—

19 “(i) a credit card system;

20 “(ii) an international, national, re-
21 gional, or local network used to effect a
22 credit transaction, an electronic fund
23 transfer, or a money transmitting service;
24 and

1 “(iii) any other system that is cen-
2 trally managed and is primarily engaged in
3 the transmission and settlement of credit
4 transactions, electronic fund transfers, or
5 money transmitting services.

6 “(B) PERSONS DESCRIBED.—A person re-
7 ferred to in subparagraph (A) is—

8 “(i) a creditor;

9 “(ii) a credit card issuer;

10 “(iii) a financial institution;

11 “(iv) an operator of a terminal at
12 which an electronic fund transfer may be
13 initiated;

14 “(v) a money transmitting business;

15 or

16 “(vi) a participant in an international,
17 national, regional, or local network used to
18 effect a credit transaction, electronic fund
19 transfer, or money transmitting service.

20 “(3) RESTRICTED TRANSACTION.—The term
21 ‘restricted transaction’ means a transaction or trans-
22 mittal, on behalf of an individual who places an un-
23 lawful drug importation request to any person en-
24 gaged in the operation of an unregistered foreign
25 pharmacy, of—

1 “(A) credit, or the proceeds of credit, ex-
2 tended to or on behalf of the individual for the
3 purpose of the unlawful drug importation re-
4 quest (including credit extended through the
5 use of a credit card);

6 “(B) an electronic fund transfer or funds
7 transmitted by or through a money transmit-
8 ting business, or the proceeds of an electronic
9 fund transfer or money transmitting service,
10 from or on behalf of the individual for the pur-
11 pose of the unlawful drug importation request;

12 “(C) a check, draft, or similar instrument
13 which is drawn by or on behalf of the individual
14 for the purpose of the unlawful drug importa-
15 tion request and is drawn on or payable at or
16 through any financial institution; or

17 “(D) the proceeds of any other form of fi-
18 nancial transaction (identified by the Board by
19 regulation) that involves a financial institution
20 as a payor or financial intermediary on behalf
21 of or for the benefit of the individual for the
22 purpose of the unlawful drug importation re-
23 quest.

24 “(4) UNLAWFUL DRUG IMPORTATION RE-
25 QUEST.—The term ‘unlawful drug importation re-

1 request’ means the request, or transmittal of a re-
2 quest, made to an unregistered foreign pharmacy for
3 a prescription drug by mail (including a private car-
4 rier), facsimile, phone, or electronic mail, or by a
5 means that involves the use, in whole or in part, of
6 the Internet.

7 “(5) UNREGISTERED FOREIGN PHARMACY.—

8 The term ‘unregistered foreign pharmacy’ means a
9 person in a country other than the United States
10 that is not a registered exporter under section 804.

11 “(6) OTHER DEFINITIONS.—

12 “(A) CREDIT; CREDITOR; CREDIT CARD.—

13 The terms ‘credit’, ‘creditor’, and ‘credit card’
14 have the meanings given the terms in section
15 103 of the Truth in Lending Act (15 U.S.C.
16 1602).

17 “(B) ACCESS DEVICE; ELECTRONIC FUND
18 TRANSFER.—The terms ‘access device’ and
19 ‘electronic fund transfer’—

20 “(i) have the meaning given the term
21 in section 903 of the Electronic Fund
22 Transfer Act (15 U.S.C. 1693a); and

23 “(ii) the term ‘electronic fund trans-
24 fer’ also includes any fund transfer covered

1 under Article 4A of the Uniform Commer-
2 cial Code, as in effect in any State.

3 “(C) FINANCIAL INSTITUTION.—The term
4 ‘financial institution’—

5 “(i) has the meaning given the term
6 in section 903 of the Electronic Transfer
7 Fund Act (15 U.S.C. 1693a); and

8 “(ii) includes a financial institution
9 (as defined in section 509 of the Gramm-
10 Leach-Bliley Act (15 U.S.C. 6809)).

11 “(D) MONEY TRANSMITTING BUSINESS;
12 MONEY TRANSMITTING SERVICE.—The terms
13 ‘money transmitting business’ and ‘money
14 transmitting service’ have the meaning given
15 the terms in section 5330(d) of title 31, United
16 States Code.

17 “(E) BOARD.—The term ‘Board’ means
18 the Board of Governors of the Federal Reserve
19 System.

20 “(7) POLICIES AND PROCEDURES REQUIRED TO
21 PREVENT RESTRICTED TRANSACTIONS.—

22 “(A) REGULATIONS.—The Board shall
23 promulgate regulations requiring—

24 “(i) an operator of a credit card sys-
25 tem;

1 “(ii) an operator of an international,
2 national, regional, or local network used to
3 effect a credit transaction, an electronic
4 fund transfer, or a money transmitting
5 service;

6 “(iii) an operator of any other pay-
7 ment system that is centrally managed and
8 is primarily engaged in the transmission
9 and settlement of credit transactions, elec-
10 tronic transfers or money transmitting
11 services where at least one party to the
12 transaction or transfer is an individual;
13 and

14 “(iv) any other person described in
15 paragraph (2)(B) and specified by the
16 Board in such regulations,

17 to establish policies and procedures that are
18 reasonably designed to prevent the introduction
19 of a restricted transaction into a payment sys-
20 tem or the completion of a restricted trans-
21 action using a payment system.

22 “(B) REQUIREMENTS FOR POLICIES AND
23 PROCEDURES.—In promulgating regulations
24 under subparagraph (A), the Board shall—

1 “(i) identify types of policies and pro-
2 cedures, including nonexclusive examples,
3 that shall be considered to be reasonably
4 designed to prevent the introduction of re-
5 stricted transactions into a payment sys-
6 tem or the completion of restricted trans-
7 actions using a payment system; and

8 “(ii) to the extent practicable, permit
9 any payment system, or person described
10 in paragraph (2)(B), as applicable, to
11 choose among alternative means of pre-
12 venting the introduction or completion of
13 restricted transactions.

14 “(C) NO LIABILITY FOR BLOCKING OR RE-
15 FUSING TO HONOR RESTRICTED TRANS-
16 ACTION.—

17 “(i) IN GENERAL.—A payment sys-
18 tem, or a person described in paragraph
19 (2)(B) that is subject to a regulation
20 issued under this subsection, and any par-
21 ticipant in such payment system that pre-
22 vents or otherwise refuses to honor trans-
23 actions in an effort to implement the poli-
24 cies and procedures required under this
25 subsection or to otherwise comply with this

1 subsection shall not be liable to any party
2 for such action.

3 “(ii) COMPLIANCE.—A person de-
4 scribed in paragraph (2)(B) meets the re-
5 quirements of this subsection if the person
6 relies on and complies with the policies and
7 procedures of a payment system of which
8 the person is a member or in which the
9 person is a participant, and such policies
10 and procedures of the payment system
11 comply with the requirements of the regu-
12 lations promulgated under subparagraph
13 (A).

14 “(D) ENFORCEMENT.—

15 “(i) IN GENERAL.—This section shall
16 be enforced by the Federal functional regu-
17 lators and the Federal Trade Commission
18 under applicable law in the manner pro-
19 vided in section 505(a) of the Gramm-
20 Leach-Bliley Act (15 U.S.C. 6805(a)).

21 “(ii) FACTORS TO BE CONSIDERED.—
22 In considering any enforcement action
23 under this subsection against a payment
24 system or person described in paragraph
25 (2)(B), the Federal functional regulators

1 and the Federal Trade Commission shall
2 consider the following factors:

3 “(I) The extent to which the pay-
4 ment system or person knowingly per-
5 mits restricted transactions.

6 “(II) The history of the payment
7 system or person in connection with
8 permitting restricted transactions.

9 “(III) The extent to which the
10 payment system or person has estab-
11 lished and is maintaining policies and
12 procedures in compliance with regula-
13 tions prescribed under this subsection.

14 “(8) TRANSACTIONS PERMITTED.—A payment
15 system, or a person described in paragraph (2)(B)
16 that is subject to a regulation issued under this sub-
17 section, is authorized to engage in transactions with
18 foreign pharmacies in connection with investigating
19 violations or potential violations of any rule or re-
20 quirement adopted by the payment system or person
21 in connection with complying with paragraph (7). A
22 payment system, or such a person, and its agents
23 and employees shall not be found to be in violation
24 of, or liable under, any Federal, State or other law
25 by virtue of engaging in any such transaction.

1 “(9) RELATION TO STATE LAWS.—No require-
2 ment, prohibition, or liability may be imposed on a
3 payment system, or a person described in paragraph
4 (2)(B) that is subject to a regulation issued under
5 this subsection, under the laws of any State with re-
6 spect to any payment transaction by an individual
7 because the payment transaction involves a payment
8 to a foreign pharmacy.

9 “(10) TIMING OF REQUIREMENTS.—A payment
10 system, or a person described in paragraph (2)(B)
11 that is subject to a regulation issued under this sub-
12 section, must adopt policies and procedures reason-
13 ably designed to comply with any regulations re-
14 quired under paragraph (7) within 60 days after
15 such regulations are issued in final form.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall take effect on the day that
18 is 90 days after the date of enactment of this Act.

19 (3) IMPLEMENTATION.—The Board of Gov-
20 ernors of the Federal Reserve System shall promul-
21 gate regulations as required by subsection (h)(7) of
22 section 303 of the Federal Food, Drug, and Cos-
23 metic Act (21 U.S.C. 333), as added by paragraph
24 (1), not later than 90 days after the date of enact-
25 ment of this Act.

1 (i) IMPORTATION EXEMPTION UNDER CONTROLLED
2 SUBSTANCES IMPORT AND EXPORT ACT.—Section
3 1006(a)(2) of the Controlled Substances Import and Ex-
4 port Act (21 U.S.C. 956(a)(2)) is amended by striking
5 “not import the controlled substance into the United
6 States in an amount that exceeds 50 dosage units of the
7 controlled substance.” and inserting “import into the
8 United States not more than 10 dosage units combined
9 of all such controlled substances.”.

10 (j) SEVERABILITY.—If any provision of this section,
11 an amendment by this section, or the application of such
12 provision or amendment to any person or circumstance is
13 held to be unconstitutional, the remainder of this section,
14 the amendments made by this section, and the application
15 of the provisions of such to any person or circumstance
16 shall not affected thereby.

17 **SEC. 3004. BRINGING DOWN PRICES FOR PRESCRIPTION**
18 **DRUGS BY EXTENDING 340B DISCOUNTED**
19 **DRUG PRICING TO MANAGED CARE ORGANI-**
20 **ZATIONS.**

21 (a) SHORT TITLE.—This section may be cited as the
22 “Drug Rebate Equalization Act of 2009”.

23 (b) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS
24 TO ENROLLEES OF MEDICAID MANAGED CARE ORGANI-
25 ZATIONS.—

1 (1) IN GENERAL.—Section 1903(m)(2)(A) (42
2 U.S.C. 1396b(m)(2)(A)) is amended—

3 (A) in clause (xi), by striking “and” at the
4 end;

5 (B) in clause (xii), by striking the period
6 at the end and inserting “; and”; and

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

8 “(xiii) such contract provides that (I)
9 payment for covered outpatient drugs dis-
10 pensed to individuals eligible for medical
11 assistance who are enrolled with the entity
12 shall be subject to the same rebate re-
13 quired by the agreement entered into
14 under section 1927 as the State is subject
15 to, and (II) capitation rates paid to the en-
16 tity shall be based on actual cost experi-
17 ence related to rebates and subject to the
18 Federal regulations requiring actuarially
19 sound rates.”.

20 (2) CONFORMING AMENDMENTS.—Section 1927
21 (42 U.S.C. 1396r–8) is amended—

22 (A) in subsection (d)—

23 (i) in paragraph (1), by adding at the
24 end the following:

1 “(C) Notwithstanding the subparagraphs
2 (A) and (B)—

3 “(i) a Medicaid managed care organi-
4 zation with a contract under section
5 1903(m) may exclude or otherwise restrict
6 coverage of a covered outpatient drug on
7 the basis of policies or practices of the or-
8 ganization, such as those affecting utiliza-
9 tion management, formulary adherence,
10 and cost sharing or dispute resolution, in
11 lieu of any State policies or practices relat-
12 ing to the exclusion or restriction of cov-
13 erage of such drugs, provided, however,
14 that any such exclusions and restrictions of
15 coverage shall be subject to any contrac-
16 tual requirements and oversight by the
17 State as contained in the Medicaid man-
18 aged care organization’s contract with the
19 State, and the State shall maintain ap-
20 proval authority over the formulary used
21 by the Medicaid managed care organiza-
22 tion; and

23 “(ii) nothing in this section or para-
24 graph (2)(A)(xiii) of section 1903(m) shall
25 be construed as requiring a Medicaid man-

1 aged care organization with a contract
2 under such section to maintain the same
3 such policies and practices as those estab-
4 lished by the State for purposes of individ-
5 uals who receive medical assistance for cov-
6 ered outpatient drugs on a fee-for-service
7 basis.”; and

8 (ii) in paragraph (4), by inserting
9 after subparagraph (E) the following:

10 “(F) Notwithstanding the preceding sub-
11 paragraphs of this paragraph, any formulary
12 established by Medicaid managed care organiza-
13 tion with a contract under section 1903(m) may
14 be based on positive inclusion of drugs selected
15 by a formulary committee consisting of physi-
16 cians, pharmacists, and other individuals with
17 appropriate clinical experience as long as drugs
18 excluded from the formulary are available
19 through prior authorization, as described in
20 paragraph (5).”;

21 (B) in subsection (j), by striking para-
22 graph (1) and inserting the following:

23 “(1) Covered outpatients drugs are not subject
24 to the requirements of this section if such drugs
25 are—

1 “(A) dispensed by health maintenance or-
2 ganizations, including Medicaid managed care
3 organizations that contract under section
4 1903(m); and

5 “(B) subject to discounts under section
6 340B of the Public Health Service Act.”.

7 (3) REPORTS.—Each State with a contract with
8 a Medicaid managed care organization under section
9 1903(m) of the Social Security Act (42 U.S.C.
10 1396b(m)) shall report to the Secretary on a quar-
11 terly basis the total amount of rebates in dollars and
12 volume received from manufacturers (as defined in
13 section 1927(k)(5) of such Act (42 U.S.C. 1396r-
14 8(k)(5)) for drugs provided to individuals enrolled
15 with such an organization as a result of the amend-
16 ments made by this section for both brand-name and
17 generic drugs. The Secretary shall review the reports
18 submitted by States under this subsection and, after
19 such review, make publically available the aggregate
20 data contained in such reports.

21 (4) EFFECTIVE DATE.—This section and the
22 amendments made by this section take effect on the
23 date of enactment of this Act and apply to rebate
24 agreements entered into or renewed under section

1 1927 of the Social Security Act (42 U.S.C. 1396r–
2 8) on or after such date.

3 **SEC. 3005. BRINGING DOWN PRICES FOR PRESCRIPTION**
4 **DRUGS BY INCREASING THE MEDICAID DRUG**
5 **REBATE.**

6 Section 1927(c)(1)(B)(i) of the Social Security Act
7 (42 U.S.C. 1396r–8(c)(1)(B)(i)) is amended—

8 (1) in subclause (IV), by striking “and” after
9 the semicolon;

10 (2) in subclause (V)—

11 (A) by inserting “and before January 1,
12 2010,” after “1995,”; and

13 (B) by striking the period and inserting “;
14 and”; and

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

16 “(VI) after December 31, 2009,
17 is 20 percent.”.

18 **SEC. 3006. ENDING TAXPAYER SUBSIDIES FOR EXPORTERS.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of the enactment of this Act, the Secretary of Com-
21 merce shall develop and implement a program to impose
22 fees on businesses that benefit from the trade promotion
23 activities of the International Trade Administration.

24 (b) BUDGET NEUTRALITY.—The fees shall be im-
25 posed in an amount that ensures that any Federal expend-

1 itures on trade promotion activities of the International
2 Trade Administration are offset by the fees collected
3 under the program in a budget neutral manner.

4 **SEC. 3007. REDUCING TAXPAYER SUBSIDIES FOR EXPORT-**
5 **ERS OF AGRICULTURE COMMODITIES.**

6 Section 211(c)(1)(A) of the Agricultural Trade Act
7 of 1978 (7 U.S.C. 5641(c)(1)(A)) is amended by striking
8 “and \$200,000,000 for each of fiscal years 2008 through
9 2012” and inserting “\$200,000,000 for each of fiscal
10 years 2008 and 2009, and \$160,000,000 for each of fiscal
11 years 2010 through 2012”.

12 **SEC. 3008. MAKING COMPANIES PAY WHEN THEY FAIL FDA**
13 **QUALITY INSPECTIONS.**

14 (a) IN GENERAL.—The Secretary shall assess and
15 collect a user fee from each facility registered under sec-
16 tion 415 of the Federal Food, Drug, and Cosmetic Act
17 (21 U.S.C. 350d), establishment registered under section
18 510 of such Act (21 U.S.C. 360), and facility described
19 in section 351(a)(1)(C) of the Public Health Service Act
20 (42 U.S.C. 262(1)(C)) for which a followup reinspection
21 is required to ensure correction of a violation found by
22 the Secretary during initial inspection of the facility or
23 establishment of a good manufacturing practices require-
24 ment under the Federal Food, Drug, and Cosmetic Act
25 (21 U.S.C. 301 et seq.).

1 (b) PAYMENT OF FEE.—The user fee required under
2 subsection (a) shall be due from a facility or establishment
3 described in such subsection upon the reinspection of such
4 facility or establishment, as described in subsection (a).

5 (c) AMOUNT OF USER FEE.—The amount of the user
6 fee required under subsection (a) shall be established by
7 the Secretary.

8 (d) DEFINITIONS.—For purposes of this section—

9 (1) the terms “animal drug”, “device”, “drug”,
10 and “food” have the meanings given those terms in
11 section 201 of the Federal Food, Drug, and Cos-
12 metic Act (21 U.S.C. 321);

13 (2) the term “biological product” has the mean-
14 ing given the term in section 351 of the Public
15 Health Service Act (42 U.S.C. 262); and

16 (3) the term “Secretary” means the Secretary
17 of Health and Human Services.

18 **TITLE IV—ENDING TAXPAYER**
19 **SUBSIDIES FOR BIG AGRI-**
20 **BUSINESSES**

21 **SEC. 4001. REFORMING IRRIGATION SUBSIDIES.**

22 (a) DEFINITIONS.—Section 202 of the Reclamation
23 Reform Act of 1982 (43 U.S.C. 390bb) is amended—

1 (1) by redesignating paragraphs (7), (8), (9),
2 (10), and (11) as paragraphs (9), (10), (11), (12),
3 and (13), respectively;

4 (2) in paragraph (6), by striking “owned or op-
5 erated under a lease which” and inserting “that is
6 owned, leased, or operated by an individual or legal
7 entity and that”;

8 (3) by inserting after paragraph (6) the fol-
9 lowing:

10 “(7) LEGAL ENTITY.—The term ‘legal entity’
11 includes a corporation, association, partnership,
12 trust, joint tenancy, or tenancy in common, or any
13 other entity that owns, leases, or operates a farm
14 operation for the benefit of more than 1 individual
15 under any form of agreement or arrangement.

16 “(8) OPERATOR.—

17 “(A) IN GENERAL.—The term ‘operator’—

18 “(i) means an individual or legal enti-
19 ty that operates a single farm operation on
20 a parcel (or parcels) of land that is owned
21 or leased by another person (or persons)
22 under any form of agreement or arrange-
23 ment (or agreements or arrangements);
24 and

25 “(ii) if the individual or legal entity—

1 “(I) is an employee of an indi-
2 vidual or legal entity, includes the in-
3 dividual or legal entity; or

4 “(II) is a legal entity that con-
5 trols, is controlled by, or is under
6 common control with another legal en-
7 tity, includes each such other legal en-
8 tity.

9 “(B) OPERATION OF A FARM OPER-
10 ATION.—For the purposes of subparagraph (A),
11 an individual or legal entity shall be considered
12 to operate a farm operation if the individual or
13 legal entity is the person that performs the
14 greatest proportion of the decisionmaking for
15 and supervision of the agricultural enterprise on
16 land served with irrigation water.”; and
17 (4) by adding at the end the following:

18 “(14) SINGLE FARM OPERATION.—

19 “(A) IN GENERAL.—The term ‘single farm
20 operation’ means the total acreage of land
21 served with irrigation water for which an indi-
22 vidual or legal entity is the operator.

23 “(B) RULES FOR DETERMINING WHETHER
24 SEPARATE PARCELS ARE OPERATED AS A SIN-
25 GLE FARM OPERATION.—

1 “(i) EQUIPMENT- AND LABOR-SHAR-
2 ING ACTIVITIES.—The conduct of
3 equipment- and labor-sharing activities on
4 separate parcels of land by separate indi-
5 viduals or legal entities shall not by itself
6 serve as a basis for concluding that the
7 farming operations of the individuals or
8 legal entities constitute a single farm oper-
9 ation.

10 “(ii) PERFORMANCE OF CERTAIN
11 SERVICES.—The performance by an indi-
12 vidual or legal entity of an agricultural
13 chemical application, pruning, or har-
14 vesting for a farm operation on a parcel of
15 land shall not by itself serve as a basis for
16 concluding that the farm operation on that
17 parcel of land is part of a single farm op-
18 eration operated by the individual or entity
19 on other parcels of land.”.

20 (b) IDENTIFICATION OF OWNERS, LESSEES, AND OP-
21 ERATORS AND OF SINGLE FARM OPERATIONS.—The Rec-
22 lamation Reform Act of 1982 (43 U.S.C. 390aa et seq.)
23 is amended by inserting after section 201 the following:

1 **“SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND**
2 **OPERATORS AND OF SINGLE FARM OPER-**
3 **ATIONS.**

4 “(a) IN GENERAL.—Subject to subsection (b), for
5 each parcel of land to which irrigation water is delivered
6 or proposed to be delivered, the Secretary shall identify
7 a single individual or legal entity as the owner, lessee, or
8 operator.

9 “(b) SHARED DECISIONMAKING AND SUPER-
10 VISION.—If the Secretary determines that no single indi-
11 vidual or legal entity is the owner, lessee, or other indi-
12 vidual that performs the greatest proportion of decision-
13 making for and supervision of the agricultural enterprise
14 on a parcel of land—

15 “(1) all individuals and legal entities that own,
16 lease, or perform a proportion of decisionmaking and
17 supervision that is equal as among themselves but
18 greater than the proportion performed by any other
19 individual or legal entity shall be considered jointly
20 to be the owner, lessee, or operator; and

21 “(2) all parcels of land of which any such indi-
22 vidual or legal entity is the owner, lessee, or oper-
23 ator shall be considered to be part of the single farm
24 operation of the owner, lessee, or operator identified
25 under subsection (1).”.

1 (c) PRICING.—Section 205 of the Reclamation Re-
2 form Act of 1982 (43 U.S.C. 390ee) is amended by adding
3 at the end the following:

4 “(d) SINGLE FARM OPERATIONS GENERATING MORE
5 THAN \$500,000 IN GROSS FARM INCOME.—

6 “(1) IN GENERAL.—Notwithstanding sub-
7 sections (a), (b), and (c), in the case of—

8 “(A) a qualified recipient that reports
9 gross farm income from a single farm operation
10 in excess of \$500,000 for a taxable year; or

11 “(B) a limited recipient that received irri-
12 gation water on or before October 1, 1981, and
13 that reports gross farm income from a single
14 farm operation in excess of \$500,000 for a tax-
15 able year;

16 irrigation water may be delivered to the single farm
17 operation of the qualified recipient or limited recipi-
18 ent at less than full cost to a number of acres that
19 does not exceed the number of acres determined
20 under paragraph (2).

21 “(2) MAXIMUM NUMBER OF ACRES TO WHICH
22 IRRIGATION WATER MAY BE DELIVERED AT LESS
23 THAN FULL COST.—The number of acres determined
24 under this subparagraph is the number equal to the
25 number of acres of the single farm operation multi-

1 plied by a fraction, the numerator of which is
2 \$500,000 and the denominator of which is the
3 amount of gross farm income reported by the quali-
4 fied recipient or limited recipient in the most recent
5 taxable year.

6 “(3) INFLATION ADJUSTMENT.—

7 “(A) IN GENERAL.—The \$500,000 amount
8 under paragraphs (1) and (2) for any taxable
9 year beginning in a calendar year after 2004
10 shall be equal to the product of—

11 “(i) \$500,000, multiplied by

12 “(ii) the inflation adjustment factor
13 for the taxable year.

14 “(B) INFLATION ADJUSTMENT FACTOR.—

15 The term ‘inflation adjustment factor’ means,
16 with respect to any calendar year, a fraction the
17 numerator of which is the GDP implicit price
18 deflator for the preceding calendar year and the
19 denominator of which is the GDP implicit price
20 deflator for 2004. Not later than April 1 of any
21 calendar year, the Secretary shall publish the
22 inflation adjustment factor for the preceding
23 calendar year.

24 “(C) GDP IMPLICIT PRICE DEFLATOR.—

25 For purposes of subparagraph (B), the term

1 ‘GDP implicit price deflator’ means the first re-
2 vision of the implicit price deflator for the gross
3 domestic product as computed and published by
4 the Secretary of Commerce.

5 “(D) ROUNDING.—If any increase deter-
6 mined under subparagraph (A) is not a multiple
7 of \$100, the increase shall be rounded to the
8 next lowest multiple of \$100.”.

9 (d) CERTIFICATION OF COMPLIANCE.—Section 206
10 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff)
11 is amended to read as follows:

12 **“SEC. 206. CERTIFICATION OF COMPLIANCE.**

13 “(a) IN GENERAL.—As a condition to the receipt of
14 irrigation water for land in a district that has a contract
15 described in section 203, each owner, lessee, or operator
16 in the district shall furnish the district, in a form pre-
17 scribed by the Secretary, a certificate that the owner, les-
18 see, or operator is in compliance with this title, including
19 a statement of the number of acres owned, leased, or oper-
20 ated, the terms of any lease or agreement pertaining to
21 the operation of a farm operation, and, in the case of a
22 lessee or operator, a certification that the rent or other
23 fees paid reflect the reasonable value of the irrigation
24 water to the productivity of the land.

1 “(b) DOCUMENTATION.—The Secretary may require
2 a lessee or operator to submit for the Secretary’s examina-
3 tion—

4 “(1) a complete copy of any lease or other
5 agreement executed by each of the parties to the
6 lease or other agreement; and

7 “(2) a copy of the return of income tax imposed
8 by chapter 1 of the Internal Revenue Code of 1986
9 for any taxable year in which the single farm oper-
10 ation of the lessee or operator received irrigation
11 water at less than full cost.”.

12 (e) TRUSTS.—Section 214 of the Reclamation Re-
13 form Act of 1982 (43 U.S.C. 390nn) is repealed.

14 (f) ADMINISTRATIVE PROVISIONS.—

15 (1) PENALTIES.—Section 224(c) of the Rec-
16 lamation Reform Act of 1982 (43 U.S.C. 390ww(c))
17 is amended—

18 (A) by striking “(c) The Secretary” and
19 inserting the following:

20 “(c) REGULATIONS; DATA COLLECTION; PEN-
21 ALTIES.—

22 “(1) REGULATIONS; DATA COLLECTION.—The
23 Secretary”; and

24 (B) by adding at the end the following:

1 “(2) PENALTIES.—Notwithstanding any other
2 provision of law, the Secretary shall establish appro-
3 priate and effective penalties for failure to comply
4 with any provision of this Act or any regulation
5 issued under this Act.”.

6 (2) INTEREST.—Section 224(i) of the Reclama-
7 tion Reform Act of 1982 (43 U.S.C. 390ww(i)) is
8 amended by striking the last sentence and inserting
9 the following: “The interest rate applicable to under-
10 payments shall be equal to the rate applicable to ex-
11 penditures under section 202(3)(C).”.

12 (g) REPORTING.—Section 228 of the Reclamation
13 Reform Act of 1982 (43 U.S.C. 390zz) is amended by in-
14 serting “operator or” before “contracting entity” each
15 place it appears.

16 (h) MEMORANDUM OF UNDERSTANDING.—The Rec-
17 lamation Reform Act of 1982 (43 U.S.C. 390aa et seq.)
18 is amended—

19 (1) by redesignating sections 229 and 230 as
20 sections 230 and 231; and

21 (2) by inserting after section 228 the following:

22 **“SEC. 229. MEMORANDUM OF UNDERSTANDING.**

23 “The Secretary, the Secretary of the Treasury, and
24 the Secretary of Agriculture shall enter into a memo-
25 randum of understanding or other appropriate instrument

1 to permit the Secretary, notwithstanding section 6103 of
2 the Internal Revenue Code of 1986, to have access to and
3 use of available information collected or maintained by the
4 Department of the Treasury and the Department of Agri-
5 culture that would aid enforcement of the ownership and
6 pricing limitations of Federal reclamation law.”.

7 **SEC. 4002. REFORMING CROP INSURANCE SUBSIDIES.**

8 (a) FEDERAL SHARE OF RISK.—Section 508(k)(3) of
9 the Federal Crop Insurance Act (7 U.S.C. 1508(k)(3)) is
10 amended—

11 (1) by striking “require the” and inserting “re-
12 quire—

13 “(A) the”;

14 (2) by striking the period at the end and insert-
15 ing “; and”; and

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

17 “(B) the cumulative underwriting gain or
18 loss, and the associated premium and losses
19 with such amount, calculated under any rein-
20 surance agreement (except livestock) ceded to
21 the Corporation by each approved insurance
22 provider to be not less than 20 percent.”.

23 (b) REIMBURSEMENT RATE.—Section 508 of the
24 Federal Crop Insurance Act (7 U.S.C. 1508) is amend-
25 ed—

1 (1) in subsection (b)(11), by striking “6 per-
2 cent” and inserting “4 percent”; and

3 (2) in subsection (k)(4)—

4 (A) in subparagraph (E)—

5 (i) by striking “2009” and inserting
6 “2011”; and

7 (ii) by striking “2.3 percent” and in-
8 serting “4.3 percent”; and

9 (B) in subparagraph (F)—

10 (i) by striking “2009” and inserting
11 “2011”; and

12 (ii) by striking “12 percent” and in-
13 serting “10 percent”.

14 **SEC. 4003. REDUCING DIRECT PAYMENTS TO LARGE LAND-**
15 **OWNERS.**

16 (a) IN GENERAL.—Section 1001(b)(1)(A) of the
17 Food Security Act of 1985 (7 U.S.C. 1308(b)(1)(A)) is
18 amended by striking “of that Act, \$40,000; or” and in-
19 serting “of that Act—

20 “(i) \$40,000; or

21 “(ii) if the national average market
22 price received by producers during the 12-
23 month marketing year for a covered com-
24 modity (as determined by the Secretary) is
25 more than 110 percent of the target price

1 for the covered commodity (as determined
 2 under section 1104(c) of the Food, Con-
 3 servation, and Energy Act of 2008 (7
 4 U.S.C. 8714(c)), \$20,000; or”.

5 (b) PEANUTS.—Section 1001(c)(1)(A) of the Food
 6 Security Act of 1985 (7 U.S.C. 1308(c)(1)(A)) is amended
 7 by striking “of that Act, \$40,000; or” and inserting “of
 8 that Act—

9 “(i) \$40,000; or

10 “(ii) if the national average market
 11 price received by producers during the 12-
 12 month marketing year for peanuts (as de-
 13 termined by the Secretary) is more than
 14 110 percent of the target price for peanuts
 15 (as determined under section 1304(c) of
 16 the Food, Conservation, and Energy Act of
 17 2008 (7 U.S.C. 8754(c)), \$20,000; or”.

18 **SEC. 4004. CUTTING FARM SUBSIDIES FOR HIGH-INCOME**
 19 **INDIVIDUALS.**

20 Section 1001D(b)(1) of the Food Security Act of
 21 1985 (7 U.S.C. 1308–3a(b)(1)) is amended—

22 (1) by striking subparagraphs (A) and (B) and
 23 inserting the following:

24 “(A) NONFARM LIMITATIONS.—

1 “(i) PROHIBITION.—Notwithstanding
2 any other provision of law, a person or
3 legal entity shall not be eligible to receive
4 any benefit described in subparagraph (C)
5 during a crop, fiscal, or program year, as
6 appropriate, if the average adjusted gross
7 nonfarm income of the person or legal enti-
8 ty exceeds \$250,000.

9 “(ii) PARTIAL ELIGIBILITY.—Notwith-
10 standing any other provision of law, a per-
11 son or legal entity the average adjusted
12 gross nonfarm income of which is more
13 than \$100,000 but less than \$250,000
14 shall be eligible to receive only 66 percent
15 of any benefit described in subparagraph
16 (C) during a crop, fiscal, or program year,
17 as appropriate.

18 “(B) FARM LIMITATION.—

19 “(i) PROHIBITION.—Notwithstanding
20 any other provision of law, a person or
21 legal entity shall not be eligible to receive
22 any benefit described in subparagraph (C)
23 during a crop, fiscal, or program year, as
24 appropriate, if the average adjusted gross

1 farm income of the person or legal entity
2 exceeds \$750,000.

3 “(ii) PARTIAL ELIGIBILITY.—Notwith-
4 standing any other provision of law, a per-
5 son or legal entity the average adjusted
6 gross farm income of which is more than
7 \$500,000 but less than \$750,000 shall be
8 eligible to receive only 66 percent of any
9 benefit described in subparagraph (C) dur-
10 ing a crop, fiscal, or program year, as ap-
11 propriate.”; and

12 (2) in subparagraph (C), by striking “Subpara-
13 graph (A) applies” and inserting “Subparagraphs
14 (A) and (B) apply”.

15 **SEC. 4005. ELIMINATING THE COTTON STORAGE SUBSIDY.**

16 (a) IN GENERAL.—Section 1204 of the Food, Con-
17 servation, and Energy Act of 2008 (7 U.S.C. 8734) is
18 amended—

19 (1) by striking subsection (g); and

20 (2) by redesignating subsection (h) as sub-
21 section (g).

22 (b) APPLICATION.—The amendments made by sub-
23 section (a) apply effective beginning with the 2010 crop
24 year.

1 **SEC. 4006. ENDING SUBSIDIZED GRAZING FEES.**

2 Section 6(a) of the Public Rangelands Improvement
3 Act of 1978 (43 U.S.C. 1905) is amended—

4 (1) by striking “For the grazing years 1979
5 through 1985, the” and inserting “The”; and

6 (2) by striking “the \$1.23 base” and all that
7 follows through “previous year’s fee” and inserting
8 “an amount that is at the same level as the State
9 in which the land is located charges for public graz-
10 ing on land owned by the State, as determined by
11 the Secretary of Agriculture and the Secretary of
12 the Interior, as appropriate”.

13 **TITLE V—ENDING TAXPAYER**
14 **SUBSIDIES FOR THE USE OF**
15 **PUBLIC RESOURCES AND**
16 **GOVERNMENT SERVICES**

17 **SEC. 5001. PREVENTING GIVEAWAYS OF THE PUBLIC SPEC-**
18 **TRUM.**

19 Section 309(j)(11) of the Communications Act of
20 1934 (47 U.S.C. 309(j)(11)) is amended by striking
21 “2012” and inserting “2019”.

22 **SEC. 5002. ELIMINATING DOUBLE SUBSIDIES FOR**
23 **HARDROCK MINING BY REPEALING PER-**
24 **CENTAGE DEPLETION ALLOWANCES.**

25 (a) **IN GENERAL.**—Section 613(a) of the Internal
26 Revenue Code of 1986 (relating to percentage depletion)

1 is amended by inserting “(other than hardrock mines lo-
 2 cated on lands subject to the general mining laws or on
 3 land patented under the general mining laws)” after “In
 4 the case of the mines”.

5 (b) GENERAL MINING LAWS DEFINED.—Section 613
 6 of the Internal Revenue Code of 1986 is amended by add-
 7 ing at the end the following:

8 “(f) GENERAL MINING LAWS.—For purposes of sub-
 9 section (a), the term ‘general mining laws’ means those
 10 Acts which generally comprise chapters 2, 12A, and 16,
 11 and sections 161 and 162 of title 30 of the United States
 12 Code.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 2009.

16 **SEC. 5003. ENDING SUBSIDIES FOR HARDROCK MINING ON**
 17 **PUBLIC LANDS BY IMPOSING MINING ROYAL-**
 18 **TIES AND CLAIM FEES.**

19 (a) ROYALTY FOR HARDROCK MINING.—The Revised
 20 Statutes are amended by inserting after section 2352 (30
 21 U.S.C. 76) the following:

22 **“SEC. 2353. RESERVATION OF ROYALTY.**

23 “(a) DEFINITION OF LOCATABLE MINERAL.—In this
 24 section:

1 “(1) IN GENERAL.—The term ‘locatable min-
2 eral’ means any mineral, the legal and beneficial
3 title to which remains in the United States and that
4 is not subject to disposition under—

5 “(A) the Mineral Leasing Act (30 U.S.C.
6 181 et seq.);

7 “(B) the Act of August 7, 1947 (commonly
8 known as the ‘Mineral Leasing Act for Ac-
9 quired Lands’) (30 U.S.C. 351 et seq.);

10 “(C) the Act of July 31, 1947 (commonly
11 known as the ‘Materials Act of 1947’) (30
12 U.S.C. 601 et seq.); or

13 “(D) the Geothermal Steam Act of 1970
14 (30 U.S.C. 1001 et seq.).

15 “(2) EXCLUSIONS.—The term ‘locatable min-
16 eral’ does not include any mineral that is subject to
17 a restriction against alienation imposed by the
18 United States and is—

19 “(A) held in trust by the United States for
20 any Indian or Indian tribe (as defined in sec-
21 tion 2 of the Indian Mineral Development Act
22 of 1982 (25 U.S.C. 2101)); or

23 “(B) owned by any Indian or Indian tribe
24 (s defined in section 2 of that Act).

1 (30 U.S.C. 242(e)(2)), for each unpatented mining
2 claim, mill, or tunnel site on federally owned land,
3 whether located before, on, or after enactment of
4 this Act, each claimant shall pay to the Secretary,
5 on or before August 31 of each year, a claim mainte-
6 nance fee of \$150 per claim to hold the unpatented
7 mining claim, mill, or tunnel site for the assessment
8 year beginning at noon on September 1.

9 “(2) RELATION TO OTHER LAW.—A claim
10 maintenance fee described in paragraph (1) shall be
11 in lieu of—

12 “(A) the assessment work requirement in
13 section 2324 of the Revised Statutes (30 U.S.C.
14 28); and

15 “(B) the related filing requirements in sub-
16 sections (a) and (c) of section 314 of the Fed-
17 eral Land Policy and Management Act of 1976
18 (43 U.S.C. 1744).

19 “(3) WAIVER.—

20 “(A) IN GENERAL.—The claim mainte-
21 nance fee required under paragraph (1) shall be
22 waived for a claimant who certifies in writing to
23 the Secretary that on the date the payment was
24 due, the claimant and all related parties—

1 “(i) held not more than 10 mining
2 claims, mill sites, or tunnel sites, or any
3 combination of mining claims, mill sites, or
4 tunnel sites, on public land; and

5 “(ii) have performed assessment work
6 required under section 2324 of the Revised
7 Statutes (30 U.S.C. 28) to maintain the
8 mining claims held by the claimant and all
9 related parties for the assessment year
10 ending on noon of September 1 of the cal-
11 endar year in which payment of the claim
12 maintenance fee was due.

13 “(B) DEFINITION OF ALL RELATED PAR-
14 TIES.—In subparagraph (A), with the respect
15 to any claimant, the term ‘all related parties’
16 means—

17 “(i) the spouse and dependent chil-
18 dren (as defined in section 152 of the In-
19 ternal Revenue Code of 1986), of the
20 claimant; or

21 “(ii) a person affiliated with the
22 claimant, including—

23 “(I) a person controlled by, con-
24 trolling, or under common control
25 with the claimant; or

1 “(II) a subsidiary or parent com-
2 pany or corporation of the claimant.

3 “(4) ADJUSTMENT.—

4 “(A) IN GENERAL.—Not less than 5 years
5 after the date of enactment of the Control
6 Spending Now Act, and every 5 years there-
7 after, or more frequently if the Secretary deter-
8 mines an adjustment to be reasonable, the Sec-
9 retary shall adjust the claim maintenance fee
10 required under paragraph (1) to reflect changes
11 for the 12-month period ending the preceding
12 November 30 in the Consumer Price Index for
13 All Urban Consumers published by the Bureau
14 of Labor Statistics of the Department of Labor.

15 “(B) NOTIFICATION.—Not later than July
16 1 of any year in which an adjustment is made
17 under subparagraph (A), the Secretary shall
18 provide claimants notice of the adjustment.

19 “(C) APPLICATION.—A fee adjustment
20 under subparagraph (A) shall be effective be-
21 ginning January 1 of the calendar year fol-
22 lowing the calendar year in which the adjust-
23 ment is made.

24 “(b) LOCATION FEE.—Notwithstanding any other
25 provision of law, for each unpatented mining claim, mill,

1 or tunnel site located during the period beginning on the
2 date of enactment of the Control Spending Now Act and
3 ending on September 30, 2008, the locator shall, at the
4 time the location notice is recorded with the Bureau of
5 Land Management, pay to the Secretary a location fee,
6 in addition to the fee required by subsection (a), of \$50
7 per claim.

8 “(c) DEPOSIT.—Amounts received under subsection
9 (a) or (b) that are not otherwise allocated for the adminis-
10 tration of the mining laws by the Department of the Inte-
11 rior shall be deposited into the general fund of the Treas-
12 ury.

13 “(d) CO-OWNERSHIP.—The co-ownership provisions
14 of section 2324 of the Revised Statutes (30 U.S.C. 28)
15 shall remain in effect except that the annual claim mainte-
16 nance fee, if applicable, shall replace applicable assessment
17 requirements and expenditures.

18 “(e) FAILURE TO PAY.—Failure to pay the claim
19 maintenance fee required by subsection (a) shall conclu-
20 sively constitute a forfeiture of the unpatented mining
21 claim, mill, or tunnel site by the claimant and the claim
22 shall be considered to be null and void by operation of
23 law.

24 “(f) RELATION TO OTHER LAW.—Nothing in this
25 section changes or modifies the requirements of sub-

1 sections (b) or (c) of section 314(b) of the Federal Land
2 Policy and Management Act of 1976 (43 U.S.C. 1744).”.

3 **SEC. 5004. REDUCING STATE SUBSIDIES FOR ONSHORE OIL,**
4 **GAS, COAL, AND MINERAL LEASES ON PUBLIC**
5 **LANDS.**

6 Section 35 of the Mineral Leasing Act (30 U.S.C.
7 191) is amended by striking subsection (b) and inserting
8 the following:

9 “(b) ADMINISTRATIVE COSTS.—Before making a
10 payment to a State under subsection (a), the Secretary
11 of the Treasury shall deduct 2 percent of the payment
12 amount to reimburse the administrative costs incurred by
13 the United States in managing mineral leasing activities
14 under this Act.”.

15 **SEC. 5005. REDUCING SUBSIDIES FOR OIL, GAS, AND GEO-**
16 **THERMAL ENERGY PRODUCTION ON PUBLIC**
17 **LANDS.**

18 (a) REMOVAL OF PROHIBITION ON INCREASING FEES
19 FOR PERMITS.—Section 365 of the Energy Policy Act of
20 2005 (42 U.S.C. 15924) is amended—

21 (1) by striking subsection (i); and

22 (2) by redesignating subsection (j) as sub-
23 section (i).

24 (b) DISPOSAL OF MONEYS FROM SALES, BONUSES,
25 RENTALS, AND ROYALTIES.—Section 20 of the Geo-

1 thermal Steam Act of 1970 (30 U.S.C. 1019) is amended
2 to read as follows:

3 **“SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES,**
4 **RENTALS, AND ROYALTIES.**

5 “Subject to section 35 of the Mineral Leasing Act
6 (30 U.S.C. 191), all funds received from the sales, bo-
7 nuses, royalties, and rentals under this Act (including pay-
8 ments referred to in section 6) shall be disposed of in the
9 same manner as funds received pursuant to section 6 of
10 this Act or section 35 of the Mineral Leasing Act (30
11 U.S.C. 191), as the case may be.”.

12 **SEC. 5006. REDUCING AVIATION SUBSIDIES.**

13 Section 44940 of title 49, United States Code, is
14 amended—

15 (1) in subsection (a)(1), by inserting “in an
16 amount equal to \$5.00 per one-way trip” after “uni-
17 form fee”;

18 (2) by striking subsection (c); and

19 (3) in subsection (d)—

20 (A) in paragraph (2), by striking “sub-
21 section (d)” each place it appears and inserting
22 “this subsection”; and

23 (B) in paragraph (3), by striking “in ac-
24 cordance with paragraph (1)” and inserting
25 “under subsection (a)(2)”.

1 **SEC. 5007. TARGETING MEDICARE PRESCRIPTION DRUG AS-**
2 **SISTANCE TO THOSE WHO NEED IT MOST.**

3 (a) IN GENERAL.—Section 1860D–13(a) of the So-
4 cial Security Act (42 U.S.C. 1395w–113(a)) is amended
5 by adding at the end the following new paragraph:

6 “(7) REDUCTION IN PREMIUM SUBSIDY BASED
7 ON INCOME.—The provisions of subsection (i) of sec-
8 tion 1839 shall apply to the monthly beneficiary pre-
9 mium under this subsection in the same manner as
10 they apply to the monthly premium under such sec-
11 tion except that in so applying—

12 “(A) paragraph (1) of such subsection (i)
13 to this subsection—

14 “(i) the reference to December 2006
15 is deemed a reference to December 2009;
16 and

17 “(ii) the reference to the monthly pre-
18 mium is deemed a reference to the base
19 beneficiary premium (computed under
20 paragraph (2) of this subsection);

21 “(B) clause (i) of paragraph (3)(A) of such
22 subsection (i) to this subsection, the reference
23 to 25 percentage points is deemed a reference
24 to the beneficiary premium percentage (as spec-
25 ified in paragraph (3) of this subsection);

1 “(C) clause (ii) of paragraph (3)(A) of
2 such subsection (i) to this subsection, the na-
3 tional average monthly bid amount (computed
4 under paragraph (4) of this subsection) shall be
5 substituted for the amount specified in such
6 clause (ii) (relating to the unsubsidized part B
7 premium amount); and

8 “(D) subparagraph (B) of paragraph (3)
9 of such subsection (i) to this subsection, the
10 reference to 2009 shall be a reference to 2010,
11 the reference to 2007 shall be a reference to
12 2009, and the reference to 2008 shall be a ref-
13 erence to 2010.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) MEDICARE.—Section 1860D–13(a)(1) of
16 the Social Security Act (42 U.S.C. 1395w–
17 113(a)(1)) is amended—

18 (A) by redesignating subparagraph (F) as
19 subparagraph (G);

20 (B) in subparagraph (G), as redesignated
21 by subparagraph (A), by striking “(D) and
22 (E)” and inserting “(D), (E), and (F)”; and

23 (C) by inserting after subparagraph (E)
24 the following new subparagraph:

1 “(F) INCREASE BASED ON INCOME.—The
2 base beneficiary premium shall be increased
3 pursuant to paragraph (7).”.

4 (2) INTERNAL REVENUE CODE.—Section
5 6103(l)(20) of the Internal Revenue Code of 1986
6 (relating to disclosure of return information to carry
7 out Medicare part B premium subsidy adjustment)
8 is amended—

9 (A) in the heading, by striking “PART B
10 PREMIUM SUBSIDY ADJUSTMENT” and inserting
11 “PARTS B AND D PREMIUM SUBSIDY ADJUST-
12 MENTS”;

13 (B) in subparagraph (A)—

14 (i) in the matter preceding clause (i),
15 by inserting “or 1860D–13(a)(7)” after
16 “1839(i)”; and

17 (ii) in clause (vii), by inserting after
18 “the amount of such adjustment” the fol-
19 lowing: “or that the amount of the pre-
20 mium of the taxpayer under such sub-
21 section (as applied under section 1860D–
22 13(a)(7)) may be subject to adjustment
23 under such section 1860D–13(a)(7) and
24 the amount of such adjustment”; and

1 (C) in subparagraph (B), by inserting “or
2 such section 1860D–13(a)(7)” before the period
3 at the end.

4 **TITLE VI—TARGETING WASTE-**
5 **FUL OR UNNECESSARY GOV-**
6 **ERNMENT SPENDING**

7 **SEC. 6001. DELAYING A LUNAR MISSION.**

8 (a) IN GENERAL.—Except as provided in subsection

9 (b)—

10 (1) no amounts appropriated or otherwise made
11 available for fiscal year 2010 (or for a fiscal year be-
12 fore fiscal year 2010 that remain available for obli-
13 gation) may be obligated or expended, and no other-
14 wise obligated amounts that remain available for ex-
15 penditure may be expended, to support a human
16 lunar mission under the National Aeronautics and
17 Space Administration Constellation Program sched-
18 uled to occur before the year 2025; and

19 (2) no additional funds may be appropriated to
20 support such a human lunar mission.

21 (b) EXCEPTIONS.—An amount otherwise covered by
22 the prohibition under subsection (a) of not more than
23 \$600,000,000 may be appropriated, obligated, or ex-
24 pended each fiscal year solely for purposes in connection
25 with research and technology development and mainte-

1 nance of the manufacturing and technology base with re-
2 spect to the mission described in subsection (a).

3 **SEC. 6002. ELIMINATING THE V-22 OSPREY.**

4 (a) PROHIBITION.—Except as provided in subsection
5 (b), no amounts appropriated or otherwise made available
6 for fiscal year 2010 (or for a fiscal year before fiscal year
7 2010 that remain available for obligation) may be obli-
8 gated or expended, and no otherwise obligated amounts
9 that remain available for expenditure may be expended,
10 for the V-22 or CV-22 Osprey tiltrotor aircraft program.

11 (b) EXCEPTION FOR WINDUP OF PROGRAM.—
12 Amounts covered by the prohibition in subsection (a) that
13 are available for the program described in that subsection
14 may be utilized solely for purposes in connection with the
15 winding up of the program.

16 (c) REPEAL OF SUPERSEDED AUTHORITY.—Section
17 127 of the John Warner National Defense Authorization
18 Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat.
19 2109) is repealed.

20 **SEC. 6003. CUTTING C-17S.**

21 (a) PROHIBITION.—Except as provided in subsection
22 (b), no amounts appropriated or otherwise made available
23 for fiscal year 2010 (or for a fiscal year after 2006 and
24 before fiscal year 2010 that remain available for obliga-
25 tion) may be obligated or expended, and no otherwise obli-

1 gated amounts that remain available for expenditure may
2 be expended, for the C-17 Globemaster III aircraft pro-
3 gram.

4 (b) EXCEPTION FOR WINDUP OF PROGRAM.—
5 Amounts covered by the prohibition in subsection (a) that
6 are available for the program described in that subsection
7 may be utilized solely for purposes in connection with the
8 winding up of the program.

9 **SEC. 6004. ENDING SPENDING FOR HIGH-RISK SATELLITES.**

10 (a) PROHIBITION.—Except as provided in subsection
11 (b), no amounts appropriated or otherwise made available
12 for fiscal year 2010 (or for a fiscal year before fiscal year
13 2010 that remain available for obligation) may be obli-
14 gated or expended, and no otherwise obligated amounts
15 that remain available for expenditure may be expended,
16 to research, produce, deploy, or maintain a constellation
17 of nondemonstration satellites under the Space Tracking
18 and Surveillance System.

19 (b) EXCEPTION FOR WINDUP OF SYSTEM.—Amounts
20 covered by the prohibition in subsection (a) that are avail-
21 able for the system described in that subsection may be
22 utilized solely for purposes in connection with the winding
23 up of the system.

1 **SEC. 6005. REDUCING COST OVERRUNS AND DELAYS ON**
2 **MAJOR WEAPONS SYSTEMS.**

3 (a) IN GENERAL.—Chapter 144 of title 10, United
4 States Code, is amended by inserting after section 2435
5 the following new section:

6 **“§ 2435a. High-risk major defense acquisition pro-**
7 **grams: alternative acquisition strategies**
8 **to meet essential joint military require-**
9 **ments**

10 “(a) DESIGNATION REQUIRED.—The Under Sec-
11 retary of Defense for Acquisition, Technology, and Logis-
12 tics shall designate as high-risk for purposes of this sec-
13 tion a major defense acquisition program if—

14 “(1) the critical technologies of the program
15 have not been demonstrated, or are not planned to
16 be demonstrated, in a realistic environment prior to
17 making a production decision; or

18 “(2) the program has experienced development
19 cost growth of 25 percent or more, or schedule
20 delays of 12 months or more, since receiving a cer-
21 tification pursuant to section 2366a of this title.

22 “(b) ALTERNATIVE ACQUISITION STRATEGY.—(1)
23 Not later than 60 days after the date of the designation
24 of a major defense acquisition program as high-risk under
25 subsection (a), the Under Secretary for Acquisition, Tech-
26 nology, and Logistics shall—

1 “(A) review the joint military requirements in-
2 tended to be met by the program to determine
3 whether or not all elements of such requirements are
4 essential; and

5 “(B) develop an alternative acquisition strategy
6 that—

7 “(i) achieves capabilities in increments to
8 be delivered in less than five years each; and

9 “(ii) relies on mature technologies to meet
10 all essential elements of the joint military re-
11 quirement for each increment.

12 “(2) The Under Secretary shall submit to the Sec-
13 retary of Defense and Congress each alternative acquisi-
14 tion strategy developed under this subsection. In submit-
15 ting such strategy to Congress, the Under Secretary shall
16 also submit a report on the results of the review required
17 by paragraph (1)(B) for purposes of such strategy.

18 “(c) CONTINUATION OF PROGRAM.—(1) Upon receipt
19 of an alternative acquisition strategy to meet joint military
20 requirements under subsection (b)(2), the Secretary of
21 Defense shall determine whether or not to terminate the
22 major defense acquisition program otherwise intended to
23 meet such requirements so as to meet such requirements
24 through the alternative acquisition strategy.

1 (b) DEBT REDUCTION.—The amount recovered
2 under subsection (a) may be used only for the reduction
3 of the public debt of the United States.

4 **SEC. 6008. ENDING WASTEFUL INTELLIGENCE SPENDING.**

5 (a) VULNERABILITY ASSESSMENTS OF MAJOR SYS-
6 TEMS.—

7 (1) IN GENERAL.—Title V of the National Se-
8 curity Act of 1947 (50 U.S.C. 413 et seq.), as
9 amended by section 305 of this Act, is further
10 amended by inserting after section 506B, as added
11 by section 305(a), the following new section:

12 “VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS
13 “SEC. 506C. (a) INITIAL VULNERABILITY ASSESS-
14 MENTS.—

15 “(1) REQUIREMENT FOR INITIAL VULNER-
16 ABILITY ASSESSMENTS.—The Director of National
17 Intelligence shall conduct an initial vulnerability as-
18 sessment for any major system and its significant
19 items of supply that is proposed for inclusion in the
20 National Intelligence Program prior to completion of
21 Milestone B or an equivalent acquisition decision.
22 The initial vulnerability assessment of a major sys-
23 tem and its significant items of supply shall include
24 use of an analysis-based approach to—

25 “(A) identify vulnerabilities;

26 “(B) define exploitation potential;

1 “(C) examine the system’s potential effec-
2 tiveness;

3 “(D) determine overall vulnerability; and

4 “(E) make recommendations for risk re-
5 duction.

6 “(2) LIMITATION ON OBLIGATION OF FUNDS.—

7 For any major system for which an initial vulner-
8 ability assessment is required under paragraph (1)
9 on the date of the enactment of the Intelligence Au-
10 thorization Act for Fiscal Year 2010, such assess-
11 ment shall be submitted to the congressional intel-
12 ligence committees within 180 days of such date of
13 enactment. If such assessment is not submitted to
14 the congressional intelligence committees within 180
15 days of such date of enactment, funds appropriated
16 for the acquisition of the major system may not be
17 obligated for a major contract related to the major
18 system. Such prohibition on the obligation of funds
19 for the acquisition of the major system shall cease
20 to apply at the end of the 30-day period of a contin-
21 uous session of Congress that begins on the date on
22 which Congress receives the initial vulnerability as-
23 sessment.

24 “(b) SUBSEQUENT VULNERABILITY ASSESS-
25 MENTS.—(1) The Director of National Intelligence shall,

1 periodically throughout the life span of a major system
2 or if the Director determines that a change in cir-
3 cumstances warrants the issuance of a subsequent vulner-
4 ability assessment, conduct a subsequent vulnerability as-
5 sessment of each major system and its significant items
6 of supply within the National Intelligence Program.

7 “(2) Upon the request of a congressional intelligence
8 committee, the Director of National Intelligence may con-
9 duct a subsequent vulnerability assessment of a particular
10 major system and its significant items of supply within
11 the National Intelligence Program.

12 “(3) Any subsequent vulnerability assessment of a
13 major system and its significant items of supply shall in-
14 clude use of an analysis-based approach and, if applicable,
15 a testing-based approach, to monitor the exploitation po-
16 tential of such system and reexamine the factors described
17 in subparagraphs (A) through (E) of subsection (a)(1).

18 “(c) MAJOR SYSTEM MANAGEMENT.—The Director
19 of National Intelligence shall give due consideration to the
20 vulnerability assessments prepared for a given major sys-
21 tem when developing and determining the National Intel-
22 ligence Program budget.

23 “(d) CONGRESSIONAL OVERSIGHT.—(1) The Direc-
24 tor of National Intelligence shall provide to the congres-
25 sional intelligence committees a copy of each vulnerability

1 assessment conducted under subsection (a) or (b) not later
2 than 10 days after the date of the completion of such as-
3 sessment.

4 “(2) The Director of National Intelligence shall pro-
5 vide the congressional intelligence committees with a pro-
6 posed schedule for subsequent vulnerability assessments of
7 a major system under subsection (b) when providing such
8 committees with the initial vulnerability assessment under
9 subsection (a) of such system as required by paragraph
10 (1).

11 “(e) DEFINITIONS.—In this section:

12 “(1) The term ‘items of supply’—

13 “(A) means any individual part, compo-
14 nent, subassembly, assembly, or subsystem inte-
15 gral to a major system, and other property
16 which may be replaced during the service life of
17 the major system, including spare parts and re-
18 plenishment parts; and

19 “(B) does not include packaging or label-
20 ing associated with shipment or identification of
21 items.

22 “(2) The term ‘major system’ has the meaning
23 given that term in section 506A(e).

24 “(3) The term ‘Milestone B’ means a decision
25 to enter into system development and demonstration

1 pursuant to guidance prescribed by the Director of
2 National Intelligence.

3 “(4) The term ‘vulnerability assessment’ means
4 the process of identifying and quantifying
5 vulnerabilities in a major system and its significant
6 items of supply.”.

7 (2) TABLE OF CONTENTS AMENDMENT.—The
8 table of contents in the first section of the National
9 Security Act of 1947, as amended by section 305 of
10 this Act, is further amended by inserting after the
11 item relating to section 506B, as added by section
12 305(b), the following:

“Sec. 506C. Vulnerability assessments of major systems.”.

13 (3) DEFINITION OF MAJOR SYSTEM.—Para-
14 graph (3) of section 506A(e) of the National Secu-
15 rity Act of 1947 (50 U.S.C. 415a–1(e)) is amended
16 to read as follows:

17 “(3) The term ‘major system’ has the meaning
18 given that term in section 4 of the Office of Federal
19 Procurement Policy Act (41 U.S.C. 403).”.

20 (b) REPORTS ON THE ACQUISITION OF MAJOR SYS-
21 TEMS.—

22 (1) REPORTS.—

23 (A) IN GENERAL.—Title V of the National
24 Security Act of 1947 (50 U.S.C. 413 et seq.),
25 as amended by sections 305, 321, and 322 of

1 this Act, is further amended by inserting after
2 section 506D, as added by section 322(a)(1),
3 the following new section:

4 “REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

5 “SEC. 506E. (a) ANNUAL REPORTS REQUIRED.—(1)

6 The Director of National Intelligence shall submit to the
7 congressional intelligence committees each year, at the
8 same time the budget of the President for the fiscal year
9 beginning in such year is submitted to Congress pursuant
10 to section 1105 of title 31, United States Code, a separate
11 report on each acquisition of a major system by an ele-
12 ment of the intelligence community.

13 “(2) Each report under this section shall be known
14 as a ‘Report on the Acquisition of Major Systems’.

15 “(b) ELEMENTS.—Each report under this section
16 shall include, for the acquisition of a major system, infor-
17 mation on the following:

18 “(1) The current total acquisition cost for such
19 system, and the history of such cost from the date
20 the system was first included in a report under this
21 section to the end of the fiscal year immediately pre-
22 ceding the submission of the report under this sec-
23 tion.

24 “(2) The current development schedule for the
25 system, including an estimate of annual development
26 costs until development is completed.

1 “(3) The planned procurement schedule for the
2 system, including the best estimate of the Director
3 of National Intelligence of the annual costs and
4 units to be procured until procurement is completed.

5 “(4) A full life-cycle cost analysis for such sys-
6 tem.

7 “(5) The result of any significant test and eval-
8 uation of such major system as of the date of the
9 submission of such report, or, if a significant test
10 and evaluation has not been conducted, a statement
11 of the reasons therefor and the results of any other
12 test and evaluation that has been conducted of such
13 system.

14 “(6) The reasons for any change in acquisition
15 cost, or schedule, for such system from the previous
16 report under this section, if applicable.

17 “(7) The major contracts or subcontracts re-
18 lated to the major system.

19 “(8) If there is any cost or schedule variance
20 under a contract referred to in paragraph (7) since
21 the previous report under this section, the reasons
22 for such cost or schedule variance.

23 “(c) DETERMINATION OF INCREASE IN COSTS.—Any
24 determination of a percentage increase in the acquisition
25 costs of a major system for which a report is filed under

1 this section shall be stated in terms of constant dollars
2 from the first fiscal year in which funds are appropriated
3 for such contract.

4 “(d) SUBMISSION TO THE CONGRESSIONAL ARMED
5 SERVICES COMMITTEES.—To the extent that the report
6 required by subsection (a) addresses an element of the in-
7 telligence community within the Department of Defense,
8 the Director of National Intelligence shall submit that por-
9 tion of the report, and any associated material that is nec-
10 essary to make that portion understandable, to the Com-
11 mittee on Armed Services of the Senate and the Com-
12 mittee on Armed Services of the House of Representatives.

13 “(e) DEFINITIONS.—In this section:

14 “(1) The term ‘acquisition cost’, with respect to
15 a major system, means the amount equal to the total
16 cost for development and procurement of, and sys-
17 tem-specific construction for, such system.

18 “(2) The term ‘full life-cycle cost’, with respect
19 to the acquisition of a major system, means all costs
20 of development, procurement, construction, deploy-
21 ment, and operation and support for such program,
22 without regard to funding source or management
23 control, including costs of development and procure-
24 ment required to support or utilize such system.

1 “(3) The term ‘major contract’, with respect to
2 a major system acquisition, means each of the 6
3 largest prime, associate, or government-furnished
4 equipment contracts under the program that is in
5 excess of \$40,000,000 and that is not a firm, fixed
6 price contract.

7 “(4) The term ‘major system’ has the meaning
8 given that term in section 506A(e).

9 “(5) The term ‘significant test and evaluation’
10 means the functional or environmental testing of a
11 major system or of the subsystems that combine to
12 create a major system.”.

13 (B) APPLICABILITY DATE.—The first re-
14 port required to be submitted under section
15 506E(a) of the National Security Act of 1947,
16 as added by subparagraph (A), shall be sub-
17 mitted with the budget for fiscal year 2011 sub-
18 mitted by the President under section 1105 of
19 title 31, United States Code.

20 (C) TABLE OF CONTENTS AMENDMENT.—
21 The table of contents in the first section of that
22 Act is amended by inserting after the item re-
23 lating to section 506D, as added by section
24 322(a)(2), the following new item:

“Sec. 506E. Reports on the acquisition of major systems.”.

1 (2) MAJOR DEFENSE ACQUISITION PRO-
2 GRAMS.—Nothing in this subsection, subsection (c),
3 or an amendment made by such subsections, shall be
4 construed to exempt an acquisition program of the
5 Department of Defense from the requirements of
6 chapter 144 of title 10, United States Code or De-
7 partment of Defense Directive 5000, to the extent
8 that such requirements are otherwise applicable.

9 (c) EXCESSIVE COST GROWTH OF MAJOR SYS-
10 TEMS.—

11 (1) NOTIFICATION.—Title V of the National
12 Security Act of 1947 (50 U.S.C. 413 et seq.), as
13 amended by sections 305, 321, 322, and 323 of this
14 Act, is further amended by inserting after section
15 506E, as added by section 323(a), the following new
16 section:

17 “EXCESSIVE COST GROWTH OF MAJOR SYSTEMS
18 “SEC. 506F. (a) COST INCREASES OF AT LEAST 25
19 PERCENT.—(1)(A) On a continuing basis, and separate
20 from the submission of any report on a major system re-
21 quired by section 506E of this Act, the program manager
22 shall determine if the acquisition cost of such major sys-
23 tem has increased by at least 25 percent as compared to
24 the baseline cost of such major system.

1 “(B) Not later than 10 days after the date that a
2 program manager determines that an increase described
3 in subparagraph (A) has occurred, the program manager
4 shall submit to the Director of National Intelligence notifi-
5 cation of such increase.

6 “(2)(A) If, after receiving a notification described in
7 paragraph (1)(B), the Director of National Intelligence
8 determines that the acquisition cost of a major system has
9 increased by at least 25 percent, the Director shall submit
10 to the congressional intelligence committees a written noti-
11 fication of such determination as described in subpara-
12 graph (B), a description of the amount of the increase in
13 the acquisition cost of such major system, and a certifi-
14 cation as described in subparagraph (C).

15 “(B) The notification required by subparagraph (A)
16 shall include—

17 “(i) an updated cost estimate;

18 “(ii) the date on which the determination cov-
19 ered by such notification was made;

20 “(iii) contract performance assessment informa-
21 tion with respect to each significant contract or sub-
22 contract related to such major system, including the
23 name of the contractor, the phase of the contract at
24 the time of the report, the percentage of work under
25 the contract that has been completed, any change in

1 contract cost, the percentage by which the contract
2 is currently ahead or behind schedule, and a sum-
3 mary explanation of significant occurrences, such as
4 cost and schedule variances, and the effect of such
5 occurrences on future costs and schedules;

6 “(iv) the prior estimate of the full life-cycle cost
7 for such major system, expressed in constant dollars
8 and in current year dollars;

9 “(v) the current estimated full life-cycle cost of
10 such major system, expressed in constant dollars
11 and current year dollars;

12 “(vi) a statement of the reasons for any in-
13 creases in the full life-cycle cost of such major sys-
14 tem;

15 “(vii) the current change and the total change,
16 in dollars and expressed as a percentage, in the full
17 life-cycle cost applicable to such major system, stat-
18 ed both in constant dollars and current year dollars;

19 “(viii) the completion status of such major sys-
20 tem expressed as the percentage—

21 “(I) of the total number of years for which
22 funds have been appropriated for such major
23 system compared to the number of years for
24 which it is planned that such funds will be ap-
25 propriated; and

1 “(II) of the amount of funds that have
2 been appropriated for such major system com-
3 pared to the total amount of such funds which
4 it is planned will be appropriated;

5 “(ix) the action taken and proposed to be taken
6 to control future cost growth of such major system;
7 and

8 “(x) any changes made in the performance or
9 schedule of such major system and the extent to
10 which such changes have contributed to the increase
11 in full life-cycle costs of such major system.

12 “(C) The certification described in this subparagraph
13 is a written certification made by the Director and sub-
14 mitted to the congressional intelligence committees that—

15 “(i) the acquisition of such major system is es-
16 sential to the national security;

17 “(ii) there are no alternatives to such major
18 system that will provide equal or greater intelligence
19 capability at equal or lesser cost to completion;

20 “(iii) the new estimates of the full life-cycle cost
21 for such major system are reasonable; and

22 “(iv) the management structure for the acquisi-
23 tion of such major system is adequate to manage
24 and control full life-cycle cost of such major system.

1 “(b) COST INCREASES OF AT LEAST 50 PERCENT.—

2 (1)(A) On a continuing basis, and separate from the sub-
3 mission of any report on a major system required by sec-
4 tion 506E of this Act, the program manager shall deter-
5 mine if the acquisition cost of such major system has in-
6 creased by at least 50 percent as compared to the baseline
7 cost of such major system.

8 “(B) Not later than 10 days after the date that a
9 program manager determines that an increase described
10 in subparagraph (A) has occurred, the program manager
11 shall submit to the Director of National Intelligence notifi-
12 cation of such increase.

13 “(2) If, after receiving a notification described in
14 paragraph (1)(B), the Director of National Intelligence
15 determines that the acquisition cost of a major system has
16 increased by at least 50 percent as compared to the base-
17 line cost of such major system, the Director shall submit
18 to the congressional intelligence committees a written cer-
19 tification stating that—

20 “(A) the acquisition of such major system is es-
21 sential to the national security;

22 “(B) there are no alternatives to such major
23 system that will provide equal or greater intelligence
24 capability at equal or lesser cost to completion;

1 “(C) the new estimates of the full life-cycle cost
2 for such major system are reasonable; and

3 “(D) the management structure for the acquisi-
4 tion of such major system is adequate to manage
5 and control the full life-cycle cost of such major sys-
6 tem.

7 “(3) In addition to the certification required by para-
8 graph (2), the Director of National Intelligence shall sub-
9 mit to the congressional intelligence committees an up-
10 dated notification, with current accompanying informa-
11 tion, as required by subsection (a)(2).

12 “(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1)
13 If a written certification required under subsection
14 (a)(2)(A) is not submitted to the congressional intelligence
15 committees within 90 days of the notification made under
16 subsection (a)(1)(B), funds appropriated for the acquisi-
17 tion of a major system may not be obligated for a major
18 contract under the program. Such prohibition on the obli-
19 gation of funds shall cease to apply at the end of the 30-
20 day period of a continuous session of Congress that begins
21 on the date on which Congress receives the notification
22 required under subsection (a)(2).

23 “(2) If a written certification required under sub-
24 section (b)(2) is not submitted to the congressional intel-
25 ligence committees within 90 days of the notification made

1 under subsection (b)(1)(B), funds appropriated for the ac-
2 quisition of a major system may not be obligated for a
3 major contract under the program. Such prohibition on
4 the obligation of funds for the acquisition of a major sys-
5 tem shall cease to apply at the end of the 30-day period
6 of a continuous session of Congress that begins on the
7 date on which Congress receives the notification required
8 under subsection (b)(3).

9 “(d) INITIAL CERTIFICATIONS.—Notwithstanding
10 subsection (c), for any major system for which a written
11 certification is required under either subsection (a)(2) or
12 (b)(2) on the date of the enactment of the Intelligence Au-
13 thorization Act for Fiscal Year 2010, such written certifi-
14 cation shall be submitted to the congressional intelligence
15 committees within 180 days of such date of enactment.
16 If such written certification is not submitted to the con-
17 gressional intelligence committees within 180 days of such
18 date of enactment, funds appropriated for the acquisition
19 of a major system may not be obligated for a major con-
20 tract under the program. Such prohibition on the obliga-
21 tion of funds for the acquisition of a major system shall
22 cease to apply at the end of the 30-day period of a contin-
23 uous session of Congress that begins on the date on which
24 Congress receives the notification required under sub-
25 section (a)(2) or (b)(3).

1 “(e) SUBMISSION TO THE CONGRESSIONAL ARMED
2 SERVICES COMMITTEES.—To the extent that a submission
3 required to be made to the congressional intelligence com-
4 mittees under this section addresses an element of the in-
5 telligence community within the Department of Defense,
6 the Director of National Intelligence shall submit that por-
7 tion of the submission, and any associated material that
8 is necessary to make that portion understandable, to the
9 Committee on Armed Services of the Senate and the Com-
10 mittee on Armed Services of the House of Representatives.

11 “(f) DEFINITIONS.—In this section:

12 “(1) The term ‘acquisition cost’ has the mean-
13 ing given that term in section 506E(d).

14 “(2) The term ‘baseline cost’, with respect to a
15 major system, means the projected acquisition cost
16 of such system that is approved by the Director of
17 National Intelligence at Milestone B or an equivalent
18 acquisition decision for the development, procure-
19 ment, and construction of such system. The baseline
20 cost may be in the form of an independent cost esti-
21 mate.

22 “(3) The term ‘cost estimate’—

23 “(A) means an assessment and quantifica-
24 tion of all costs and risks associated with the
25 acquisition of a major system based upon rea-

1 sonably available information at the time a
2 written certification is required under either
3 subsection (a)(2) or (b)(2); and

4 “(B) does not mean an ‘independent cost
5 estimate’.

6 “(4) The term ‘full life-cycle cost’ has the
7 meaning given that term in section 506E(d).

8 “(5) The term ‘independent cost estimate’ has
9 the meaning given that term in section 506A(e).

10 “(6) The term ‘major system’ has the meaning
11 given that term in section 506A(e).

12 “(7) The term ‘Milestone B’ means a decision
13 to enter into system development and demonstration
14 pursuant to guidance prescribed by the Director of
15 National Intelligence.

16 “(8) The term ‘program manager’, with respect
17 to a major system, means—

18 “(A) the head of the element of the intel-
19 ligence community which is responsible for the
20 budget, cost, schedule, and performance of the
21 major system; or

22 “(B) in the case of a major system within
23 the Office of the Director of National Intel-
24 ligence, the deputy who is responsible for the

1 budget, cost, schedule, and performance of the
2 major system.”.

3 (2) TABLE OF CONTENTS AMENDMENT.—The
4 table of contents in the first section of that Act, as
5 amended by sections 305, 321, 322, and 323 of this
6 Act, is further amended by inserting after the items
7 relating to section 506E, as added by section
8 323(a)(3), the following new item:

“Sec. 506F. Excessive cost growth of major systems.”.

9 (d) FUTURE BUDGET PROJECTIONS.—

10 (1) IN GENERAL.—Title V of the National Se-
11 curity Act of 1947 (50 U.S.C. 413 et seq.), as
12 amended by sections 305, 321, 322, 323, and 324
13 of this Act, is further amended by inserting after
14 section 506F, as added by section 324(a), the fol-
15 lowing new section:

16 “FUTURE BUDGET PROJECTIONS

17 “SEC. 506G. (a) FUTURE YEAR INTELLIGENCE
18 PLANS.—(1) The Director of National Intelligence, with
19 the concurrence of the Office of Management and Budget,
20 shall provide to the congressional intelligence committees
21 a Future Year Intelligence Plan, as described in para-
22 graph (2), for—

23 “(A) each expenditure center in the National
24 Intelligence Program; and

1 “(B) each major system in the National Intel-
2 ligence Program.

3 “(2)(A) A Future Year Intelligence Plan submitted
4 under this subsection shall include the year-by-year pro-
5 posed funding for each center or system referred to in sub-
6 paragraph (A) or (B) of paragraph (1), for the budget
7 year for which the Plan is submitted and not less than
8 the 4 subsequent budget years.

9 “(B) A Future Year Intelligence Plan submitted
10 under subparagraph (B) of paragraph (1) for a major sys-
11 tem shall include—

12 “(i) the estimated total life-cycle cost of such
13 major system; and

14 “(ii) any major acquisition or programmatic
15 milestones for such major system.

16 “(b) LONG-TERM BUDGET PROJECTIONS.—(1) The
17 Director of National Intelligence, with the concurrence of
18 the Director of the Office of Management and Budget,
19 shall provide to the congressional intelligence committees
20 a Long-term Budget Projection for each element of the
21 National Intelligence Program acquiring a major system
22 that includes the budget for such element for the 5-year
23 period following the last budget year for which proposed
24 funding was submitted under subsection (a)(2)(A).

1 “(2) A Long-term Budget Projection submitted
2 under paragraph (1) shall include projections for the ap-
3 propriate element of the intelligence community for—

4 “(A) pay and benefits of officers and employees
5 of such element;

6 “(B) other operating and support costs and
7 minor acquisitions of such element;

8 “(C) research and technology required by such
9 element;

10 “(D) current and planned major system acqui-
11 sitions for such element; and

12 “(E) any unplanned but necessary next-genera-
13 tion major system acquisitions for such element.

14 “(c) SUBMISSION TO CONGRESS.—Each Future Year
15 Intelligence Plan or Long-term Budget Projection re-
16 quired under subsection (a) or (b) shall be submitted to
17 Congress along with the budget for a fiscal year submitted
18 to Congress by the President pursuant to section 1105 of
19 title 31, United States Code.

20 “(d) CONTENT OF LONG-TERM BUDGET PROJEC-
21 TIONS.—(1) Each Long-term Budget Projection sub-
22 mitted under subsection (b) shall include—

23 “(A) a budget projection based on constrained
24 budgets, effective cost and schedule execution of cur-
25 rent or planned major system acquisitions, and mod-

1 est or no cost-growth for undefined, next-generation
2 systems; and

3 “(B) a budget projection based on constrained
4 budgets, modest cost increases in executing current
5 and planned programs, and more costly next-genera-
6 tion systems.

7 “(2) Each budget projection required by paragraph
8 (1) shall include a description of whether, and to what
9 extent, the total projection for each year exceeds the level
10 that would result from applying the most recent Office of
11 Management and Budget inflation estimate to the budget
12 of that element of the intelligence community.

13 “(e) NEW MAJOR SYSTEM AFFORDABILITY RE-
14 PORT.—(1) Beginning on February 1, 2010, not later
15 than 30 days prior to the date that an element of the intel-
16 ligence community may proceed to Milestone A, Milestone
17 B, or an analogous stage of system development, in the
18 acquisition of a major system in the National Intelligence
19 Program, the Director of National Intelligence, with the
20 concurrence of the Director of the Office of Management
21 and Budget, shall provide a report on such major system
22 to the congressional intelligence committees.

23 “(2)(A) A report submitted under paragraph (1)
24 shall include an assessment of whether, and to what ex-
25 tent, such acquisition, if developed, procured, and oper-

1 ated, is projected to cause an increase in the most recent
2 Future Year Intelligence Plan and Long-term Budget
3 Projection for that element of the intelligence community.

4 “(B) If an increase is projected under subparagraph
5 (A), the report required by this subsection shall include
6 a specific finding, and the reasons therefor, by the Direc-
7 tor of National Intelligence and the Director of the Office
8 of Management and Budget that such increase is nec-
9 essary for national security.

10 “(f) DEFINITIONS.—In this section:

11 “(1) The term ‘major system’ has the meaning
12 given that term in section 506A(e).

13 “(2) The term ‘Milestone A’ means a decision
14 to enter into concept refinement and technology ma-
15 turity demonstration pursuant to guidance issued by
16 the Director of National Intelligence.

17 “(3) The term ‘Milestone B’ means a decision
18 to enter into system development, integration, and
19 demonstration pursuant to guidance prescribed by
20 the Director of National Intelligence.”.

21 (2) APPLICABILITY DATE.—The first Future
22 Year Intelligence Plan or Long-term Budget Projec-
23 tion required to be submitted under subsection (a)
24 or (b) of section 506G of the National Security Act
25 of 1947, as added by paragraph (1), shall be sub-

1 mitted with the budget for fiscal year 2011 sub-
2 mitted by the President under section 1105 of title
3 31, United States Code.

4 (3) TABLE OF CONTENTS AMENDMENT.—The
5 table of contents in the first section of that Act, as
6 amended by sections 305, 321, 322, 323, and 324
7 of this Act, is further amended by inserting after the
8 items relating to section 506F, as added by section
9 324(b), the following new item:

 “Sec. 506G. Future budget projections.”.

10 (e) CORRECTING LONG-STANDING MATERIAL WEAK-
11 NESSES.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) COVERED ELEMENT OF THE INTEL-
14 LIGENCE COMMUNITY.—The term “covered ele-
15 ment of the intelligence community” means—

16 (i) the Central Intelligence Agency;

17 (ii) the Defense Intelligence Agency;

18 (iii) the National Geospatial-Intel-
19 ligence Agency;

20 (iv) the National Reconnaissance Of-
21 fice; or

22 (v) the National Security Agency.

23 (B) INDEPENDENT AUDITOR.—The term
24 “independent auditor” means an individual
25 who—

1 (i)(I) is a Federal, State, or local gov-
2 ernment auditor who meets the independ-
3 ence standards included in generally ac-
4 cepted government auditing standards; or

5 (II) is a public accountant who meets
6 such independence standards; and

7 (ii) is designated as an auditor by the
8 Director of National Intelligence or the
9 head of a covered element of the intel-
10 ligence community, as appropriate.

11 (C) LONG-STANDING, CORRECTABLE MATE-
12 RIAL WEAKNESS.—The term “long-standing,
13 correctable material weakness” means a mate-
14 rial weakness—

15 (i) that was first reported in the an-
16 nual financial report of a covered element
17 of the intelligence community for a fiscal
18 year prior to fiscal year 2007; and

19 (ii) the correction of which is not sub-
20 stantially dependent on a business system
21 that will not be implemented prior to the
22 end of fiscal year 2010.

23 (D) MATERIAL WEAKNESS.—The term
24 “material weakness” has the meaning given
25 that term under the Office of Management and

1 Budget Circular A-123, entitled “Manage-
2 ment’s Responsibility for Internal Control,” re-
3 vised December 21, 2004.

4 (E) COVERED PROGRAM.—The term “cov-
5 ered program” means—

6 (i) the Central Intelligence Agency
7 Program;

8 (ii) the Consolidated Cryptologic Pro-
9 gram;

10 (iii) the General Defense Intelligence
11 Program;

12 (iv) the National Geospatial-Intel-
13 ligence Program; or

14 (v) the National Reconnaissance Pro-
15 gram.

16 (F) SENIOR INTELLIGENCE MANAGEMENT
17 OFFICIAL.—The term “senior intelligence man-
18 agement official” means an official within a
19 covered element of the intelligence community
20 who holds a position—

21 (i)(I) for which the level of the duties
22 and responsibilities and the rate of pay are
23 comparable to that of a position—

24 (aa) above grade 15 of the Gen-
25 eral Schedule (as described in section

1 5332 of title 5, United States Code);

2 or

3 (bb) at or above level IV of the
4 Executive Level (as described in sec-
5 tion 5315 of title 5, United States
6 Code); or

7 (II) as the head of a covered element
8 of the intelligence community; and

9 (ii) which is compensated for employ-
10 ment with funds appropriated pursuant to
11 an authorization of appropriations in this
12 Act.

13 (2) IDENTIFICATION OF SENIOR INTELLIGENCE
14 MANAGEMENT OFFICIALS.—

15 (A) REQUIREMENT TO IDENTIFY.—Not
16 later than 30 days after the date of the enact-
17 ment of this Act, the head of a covered element
18 of the intelligence community shall identify each
19 senior intelligence management official of such
20 element who is responsible for correcting a
21 long-standing, correctable material weakness.

22 (B) HEAD OF A COVERED ELEMENT OF
23 THE INTELLIGENCE COMMUNITY.—The head of
24 a covered element of the intelligence community
25 may designate himself or herself as the senior

1 intelligence management official responsible for
2 correcting a long-standing, correctable material
3 weakness.

4 (C) REQUIREMENT TO UPDATE DESIGNA-
5 TION.—In the event a senior intelligence man-
6 agement official identified under subparagraph
7 (A) is determined by the head of the appro-
8 priate covered element of the intelligence com-
9 munity to no longer be responsible for cor-
10 recting a long-standing, correctable material
11 weakness, the head of such element shall iden-
12 tify the successor to such official not later than
13 10 days after the date of such determination.

14 (3) NOTIFICATION.—Not later than 10 days
15 after the date that the head of a covered element of
16 the intelligence community has identified a senior in-
17 telligence management official pursuant to sub-
18 section (b)(1), the head of such element shall pro-
19 vide written notification of such identification to the
20 Director of National Intelligence and to such senior
21 intelligence management official.

22 (4) INDEPENDENT REVIEW.—

23 (A) NOTIFICATION OF CORRECTION OF DE-
24 FICIENCY.—A senior intelligence management
25 official who has received a notification under

1 paragraph (3) regarding a long-standing, cor-
2 rectable material weakness shall notify the head
3 of the appropriate covered element of the intel-
4 ligence community, not later than 5 days after
5 the date that such official determines that the
6 specified material weakness is corrected.

7 (B) REQUIREMENT FOR INDEPENDENT RE-
8 VIEW.—

9 (i) IN GENERAL.—Not later than 10
10 days after the date a notification is pro-
11 vided under subparagraph (A), the head of
12 the appropriate covered element of the in-
13 telligence community shall appoint an inde-
14 pendent auditor to conduct an independent
15 review to determine whether the specified
16 long-standing, correctable material weak-
17 ness has been corrected.

18 (ii) REVIEW ALREADY IN PROCESS.—
19 If an independent review is already being
20 conducted by an independent auditor, the
21 head of the covered element of the intel-
22 ligence community may approve the con-
23 tinuation of such review to comply with
24 clause (i).

1 (iii) CONDUCT OF REVIEW.—A review
2 conducted under clause (i) or (ii) shall be
3 conducted as expeditiously as possible and
4 in accordance with generally accepted ac-
5 counting principles.

6 (C) NOTIFICATION OF RESULTS OF RE-
7 VIEW.—Not later than 5 days after the date
8 that a review required by subparagraph (B) is
9 completed, the independent auditor shall submit
10 to the head of the covered element of the intel-
11 ligence community, the Director of National In-
12 telligence, and the senior intelligence manage-
13 ment official involved a notification of the re-
14 sults of such review.

15 (5) CONGRESSIONAL OVERSIGHT.—The head of
16 a covered element of the intelligence community
17 shall notify the congressional intelligence committees
18 not later than 30 days after the date of—

19 (A) that a senior intelligence management
20 official is identified under paragraph (2)(A) and
21 notified under paragraph (3); or

22 (B) the correction of a long-standing, cor-
23 rectable material weakness, as verified by an
24 independent review under paragraph (4)(B).

1 **SEC. 6009. ENDING THE IRS SLUSH FUND.**

2 The Internal Revenue Service shall deposit in the
3 Treasury as miscellaneous receipts all of the fees it re-
4 ceives for services.

5 **SEC. 6010. RESCINDING UNSPENT EARMARKS.**

6 (a) DEFINITION.—In this section, the term “ear-
7 mark” means the following:

8 (1) A congressionally directed spending item, as
9 defined in Rule XLIV of the Standing Rules of the
10 Senate.

11 (2) A congressional earmark for purposes of
12 Rule XXI of the House of Representatives.

13 (b) RESCISSION.—Any appropriated earmark with
14 more than 90 percent of the appropriated amount remain-
15 ing available for obligation at the end of the 9th fiscal
16 year following the fiscal year in which the earmark was
17 made available is rescinded effective at the end of that
18 9th fiscal year.

19 (c) AGENCY IDENTIFICATION AND REPORTS.—

20 (1) AGENCY IDENTIFICATION.—Each Federal
21 agency shall identify and report every project that is
22 an earmark with an unobligated balance at the end
23 of each fiscal year to the Director of OMB.

24 (2) ANNUAL REPORT.—The Director of OMB
25 shall submit to Congress and publically post on the
26 website of OMB an annual report that includes—

1 (A) a listing and accounting for earmarks
2 with unobligated balances summarized by agen-
3 cy including the amount of the original ear-
4 mark, amount of the unobligated balance and
5 year when the funding expires, if applicable;

6 (B) the number of rescissions resulting
7 from this section and the annual savings result-
8 ing from this section for the previous fiscal
9 year; and

10 (C) a listing a accounting for earmarks
11 scheduled to be rescinded at the end of the cur-
12 rent fiscal year.

13 **SEC. 6011. REPEALING THE RAIL-LINE RELOCATION PRO-**
14 **GRAM.**

15 Section 20154 of title 49, United States Code, is re-
16 pealed.

17 **SEC. 6012. ELIMINATING RADIO/TV MARTI AT THE OFFICE**
18 **OF CUBA BROADCASTING.**

19 (a) RADIO BROADCASTING TO CUBA ACT.—The
20 Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.)
21 is repealed.

22 (b) TELEVISION BROADCASTING TO CUBA ACT.—
23 The Television Broadcasting to Cuba Act (22 U.S.C.
24 1465aa et seq.) is repealed.

1 (c) REPORT ON PUBLIC COMMUNICATION WITH
2 CUBAN PEOPLE.—Not later than 90 days after the date
3 of the enactment of this Act, the Secretary of State, in
4 consultation with the Broadcasting Board of Governors,
5 the International Broadcasting Bureau, and other relevant
6 agencies and organizations, shall submit a report to the
7 Committee on Appropriations of the Senate, the Com-
8 mittee on Foreign Relations of the Senate, the Committee
9 on Appropriations of the House of Representatives, and
10 the Committee on Foreign Affairs of the House of Rep-
11 resentatives that describes—

12 (1) alternatives to television and radio broad-
13 casts for disseminating news and information to,
14 and otherwise communicating with, the Cuban peo-
15 ple, including DVDs, the Internet, cell phones, and
16 other handheld electronic devices; and

17 (2) the relative effectiveness of each of the com-
18 munication alternatives identified under paragraph

19 (1).

20 **SEC. 6013. ENDING SUPPORT FOR THE COLOMBIAN MILI-**
21 **TARY.**

22 None of the funds appropriated or otherwise made
23 available by any Act under the headings “INTERNATIONAL
24 NARCOTICS CONTROL AND LAW ENFORCEMENT” or “FOR-
25 EIGN MILITARY FINANCING PROGRAM” may be used for

- 1 direct support to the military forces of the Government
- 2 of Colombia.

