The Blueprint for a Better America

This crowd-sourced legislation was proposed by the Phoenix Congress on October 2, 2020. More details about this and the structure behind it at: PhoenixCongress2020.com.

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Blueprint for a Better America".
(b) Table of Contents— The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS - The Congress finds the following:

(1) Dr. Martin Luther King Jr. identified the triple evils of poverty, racism, and militarism, declaring before his death in 1968, "*Our only hope today lies in our ability to recapture the revolutionary spirit, and go out into a sometimes hostile world, declaring eternal opposition to poverty, racism, and militarism. With this powerful commitment, we shall boldly challenge the status quo…"*

(2) Tens of millions of Americans live below the poverty line, a number which has increased as a result of the COVID-19 pandemic. Dr. King called for a basic income,

stating, "*We must develop a program that will drive the nation to a guaranteed annual income.... we are likely to find that the problems of housing and education, instead of preceding the elimination of poverty, will themselves be affected if poverty is first abolished. The poor transformed into purchasers will do a great deal on their own.... a host of positive psychological changes inevitably will result from widespread economic security. The dignity of the individual will flourish when the decisions concerning his life are in his own hands, when he has the means to seek self-improvement. Personal conflicts among husbands, wives and children will diminish when the unjust measurement of human worth on the scale of dollars is eliminated. Now our country can do this."*

(3) America's system of mass incarceration has grown the prison population to eight times what it was at the end of Dr. King's life. It has been called the new Jim Crow because of its disproportionate effect on communities of color. Despite similar usage rates across races, people of color are more likely to be arrested and incarcerated in the war on drugs. Dr. King wrote about racial bias in his letter from Birmingham Jail, "*All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority..... [it] is not only politically, economically, and sociologically unsound, but it is morally wrong and sinful. ...An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is difference made legal. Let me give another explanation. An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because it did not have the unhampered right to vote."*

(4) Dr. King spoke vehemently against the endless war of Vietnam, and many of his observations are just as true of the Middle East. "*The only change came from America as we increased our troop commitments in support of governments which were singularly corrupt, inept, and without popular support. All the while the people read our leaflets and received the regular promises of peace and democracy and land reform. Now they languish under our bombs and consider us, not their fellow Vietnamese, the real enemy.... They know they must move on or be destroyed by our bombs.... So far we may have killed a million of them, mostly children.... We have destroyed their two most cherished institutions: the family and the village. We have destroyed their land and their crops.... Now there is little left to build on, save bitterness.... We must speak for them and raise the questions they cannot raise. These, too, are our brothers."*

(b) PURPOSE -- The purpose of this Act is end poverty, end mass incarceration, and end the endless wars, in order to build a better America.

TITLE I—ENDING POVERTY

Subtitle A—The American Union

SEC. 101. AMERICAN UNION JOBS.

(a) Chapter 7 of title 42, United States Code, is amended by inserting after subchapter XXI the following:

"SUBCHAPTER XXII - THE AMERICAN UNION

"SEC. 1398a. All Americans enrolled and employed.

"SEC. 1398b. American Union job duties.

"SEC. 1398c. Wages.

"SEC. 1398d. Year-end bonus.

"Sec. 1398a. All Americans enrolled and employed.

"(a) The people of the United States are unconditionally and universally employed in order to form a more perfect union, an American Union.

"(1) Employment shall be based solely on citizenship, and shall not be withheld for any reason, including but not limited to: age, income, race, religion, gender, sexual orientation, occupation, geographic location, criminal history, or marital status.

"(b) Employment benefits shall continue for life. No resignation shall be permitted except under section 1481 of title 8, United States Code. Employment may not be terminated except pursuant to section 1451 of title 8, United States Code.

"(c) The provisions of this subchapter shall not be considered employment or establish an employer/employee relationship under any other provision of law.

"(d) The Social Security Administration shall promulgate rules, guidance, and regulations useful and necessary to implement this section.

"(e) START UP FUNDING.-

(1) In order to provide for the enrollment of the people of the United States in the American Union, there is hereby appropriated to the Social Security Administration, out of any funds in the Treasury not otherwise appropriated, $25,000,000,000 for fiscal year 2021. Appropriations for administrative expenses for this program in fiscal

years 2022, 2023, 2024, and 2025 shall not exceed 0.5% of the total value of payments made from the American Value Fund.

(2) AMORTIZATION OF START-UP FUNDING.—The Social Security Administration shall provide for the repayment of the startup funding provided under clause (ii) to the Treasury in an amortized manner over the 3-year period beginning with 2022.

"Sec. 1398b. American Union job duties.

"(a) All Americans have the five duties from the preamble to the Constitution, individually and collectively;

"(1) establish justice;

"(2) ensure domestic tranquility;

"(3) provide for the common defense;

"(4) promote the general welfare; and

"(5) secure the blessings of liberty, for ourselves and our posterity.

"(b) The enumerated Constitutional duties are entirely voluntary. There shall be no reporting requirements of any kind.

"(c) From time to time, the Social Security Administration shall remind Americans of their duties.

"Sec. 1398c. Wages

"(a) The Social Security Administration shall be responsible for issuing payment to all Americans for their American Union job, beginning in the second calendar month after enactment.

"(1) Adults exempt from the requirements of (2)(B) and (2)(C) shall be paid at a rate of $15,600 annually. "Adults" means any person who has attained the age of 18, or a minor who has been legally emancipated, at the beginning of a calendar month.

"(2) An intern’s rate of $5,200 annually shall be paid:

"(A) equally to legal guardians of unemancipated minors. On the request of either guardian, the payment shall be distributed proportionally, based on the number of days of residential responsibility each year pursuant to a current court order.

"(B) to Americans living outside of the United States. "Living outside the United States" shall mean that no more than 60 days in the previous 12 months were spent in the United States, as defined in section 1601 of title 26, United States Code.

"(i) The Social Security Administration shall develop clarifying rules.

"(C) to incarcerated Americans. "Incarcerated American" means any person convicted under the laws of the United States who has been incarcerated in any jail or prison for the 53 previous weeks. No payment shall be withheld or diverted without the person's consent.

"(b) Payments made under this section shall:

"(1) be deducted from the American Value Fund, and

"(2) deposited into a digital dollar wallet or account, as described in Section 143(a)(1) of this Act, unless

"(A) The individual elects for a different form of payment, or

"(B) The payment takes place prior to June 30, 2021.

"(3) Health insurance premiums deducted from payments pursuant to section 113 (a)(3) shall be remitted on behalf of the individual to the fund described in section 113 (b)(1).

"(c) The Social Security Administration shall apply the "XX" code specified in section 212.3 of title 31, Code of Federal Regulations, to designate all payments as benefit payments. The Secretary shall further issue such rules or guidance as needed to protect payments from garnishment.

"Sec. 1398d. Year-end bonus

"(a) The Secretary of the Treasury shall report by November 1, 2022, and annually thereafter, the current sum in the American Value Fund which was generated through voluntary value sharing pursuant to section 1603 of title 26, United States Code.

"(b) If the amount reported is in excess of $100,000,000,000, the proportional distribution of such sum shall be paid to all Americans prior to the end of the calendar year.

"(1) The distribution of the voluntary value sharing monies shall be paid in the same proportions as an American Union job; one pro-rata share for each adult eligible

under paragraph (a)(1), and a one-third pro-rata share for all others as provided in paragraph (a)(2).".

PART I - AMERICAN UNION INSURANCE

SEC. 111. ESTABLISHMENT OF A PUBLIC HEALTH INSURANCE OPTION.

(a) Establishment.—Beginning in 2022, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall provide for the offering of an Exchange-participating health benefits plan (in this division referred to as the "public health insurance option") that ensures choice, competition, and stability of affordable, high quality coverage throughout the United States in accordance with this subtitle. In designing the option, the Secretary's primary responsibility is to create a low-cost plan without compromising quality or access to care.

(b) Offering As An Exchange-Participating Health Benefits Plan.—

(1) EXCLUSIVE TO THE EXCHANGE.—The public health insurance option shall only be made available through the Health Insurance Exchange.

(2) ENSURING A LEVEL PLAYING FIELD.—Consistent with this subtitle, the public health insurance option shall comply with requirements that are applicable under this title to an Exchange-participating health benefits plan, including requirements related to benefits, benefit levels, provider networks, notices, consumer protections, and cost-sharing.

(3) PROVISION OF BENEFIT LEVELS.—The public health insurance option—

(A) shall offer basic, enhanced, and premium plans; and

(B) may offer premium-plus plans.

(c) Administrative Contracting.—The Secretary may enter into contracts for the purpose of performing administrative functions (including functions described in subsection 1395kk–1(a)(4) of title 42, United States Code) with respect to the public health insurance option in the same manner as the Secretary may enter into contracts under subsection (a)(1) of such section. The Secretary has the same authority with respect to the public health insurance option as the Secretary has under subsections (a)(1) and (b) of 1395kk–1 of title 42, United States Code, with respect to subchapter XVIII of chapter 7 of title 42, United States Code. Contracts under this subsection shall not involve the transfer of insurance risk to such entity.

(d) Ombudsman.—The Secretary shall establish an office of the ombudsman for the public health insurance option which shall have duties with respect to the public health insurance option similar to the duties of the Medicare Beneficiary Ombudsman under section 1395b–9(c)(2) of title 42, United States Code.

(e) Data Collection.—The Secretary shall collect such data as may be required to establish premiums and payment rates for the public health insurance option and for other purposes under this subtitle, including to improve quality and to reduce racial, ethnic, and other disparities in health and health care. Nothing in this subtitle may be construed as authorizing the Secretary (or any employee or contractor) to create or maintain lists of non-medical personal property.

(f) Treatment Of Public Health Insurance Option.—With respect to the public health insurance option, the Secretary shall be treated as a qualified health benefits plan offering entity offering an Exchange-participating health benefits plan.

(g) Access To Federal Courts.—The provisions of Medicare (and related provisions of title II of the Social Security Act) relating to access of Medicare beneficiaries to Federal courts for the enforcement of rights under Medicare, including with respect to amounts in controversy, shall apply to the public health insurance option and individuals enrolled under such option under this title in the same manner as such provisions apply to Medicare and Medicare beneficiaries.

SEC. 112. ENROLLMENT IN PUBLIC OPTION IS VOLUNTARY.

Nothing in this division shall be construed as requiring anyone to enroll in the public health insurance option. Enrollment in such option is voluntary.

SEC. 113. PREMIUMS AND FINANCING.

(a) Establishment Of Premiums.—

(1) IN GENERAL.—The Secretary shall establish premium rates for the public health insurance option—

(A) in a manner that permits variation

(i) by age, within such age categories as the Secretary shall specify, as long as the ratio of the highest such premium to the lowest such premium does not exceed the ratio of 2 to 1,

(ii) by premium rating area, as permitted by State insurance regulators or determined in consultation with such regulators, and

(iii) by family enrollment, so long as the ratio of the premium for family enrollments to the premium for individual enrollment is uniform; and

(B) at a level sufficient to fully finance the costs of—

(i) health benefits provided by the public health insurance option; and

(ii) administrative costs related to operating the public health insurance option.

(2) CONTINGENCY MARGIN.—In establishing premium rates under paragraph (1), the Secretary shall include an appropriate amount for a contingency margin (which shall be not less than 90 days of estimated claims). Before setting such appropriate amount for years starting with 2024, the Secretary shall solicit a recommendation on such amount from the American Academy of Actuaries.

(3) Premiums may be deducted from payments made under section 1398c of title 42, United States Code.

(b) Account.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an Account for the receipts and disbursements attributable to the operation of the public health insurance option, including the start-up funding under paragraph (2). Section 1854(g) of the Social Security Act shall apply to receipts described in the previous sentence in the same manner as such section applies to payments or premiums described in such section.

(2) START-UP FUNDING.—

(A) IN GENERAL.—In order to provide for the establishment of the public health insurance option, there is hereby appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, $2,000,000,000. In order to provide for initial claims reserves before the collection of premiums, there are hereby appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, such sums as necessary to cover 90 days worth of claims reserves based on projected enrollment.

(B) AMORTIZATION OF START-UP FUNDING.—The Secretary shall provide for the repayment of the startup funding provided under subparagraph (A) to the Treasury in an amortized manner over the 10-year period beginning with 2022.

(C) LIMITATION ON FUNDING.—Nothing in this section shall be construed as authorizing any additional appropriations to the Account, other than such amounts as are otherwise provided with respect to other Exchange-participating health benefits plans.

(3) NO BAILOUTS.—In no case shall the public health insurance option receive any Federal funds for purposes of insolvency in any manner.

SEC. 114. PAYMENT RATES FOR ITEMS AND SERVICES.

(a) Negotiation Of Payment Rates.—

(1) IN GENERAL.—The Secretary shall negotiate payment for the public health insurance option for health care providers and items and services, including prescription drugs, consistent with this section and section 115.

(2) MANNER OF NEGOTIATION.—The Secretary shall negotiate such rates in a manner that results in payment rates that are not lower, in the aggregate, than rates under title XVIII of the Social Security Act, and not higher, in the aggregate, than the average rates paid by other QHBP offering entities for services and health care providers.

(3) INNOVATIVE PAYMENT METHODS.—Nothing in this subsection shall be construed as preventing the use of innovative payment methods such as those described in section 115 in connection with the negotiation of payment rates under this subsection.

(b) Establishment Of A Provider Network.—

(1) IN GENERAL.—Health care providers (including physicians and hospitals) participating in Medicare are participating providers in the public health insurance option unless they opt out in a process established by the Secretary consistent with this subsection.

(2) REQUIREMENTS FOR OPT-OUT PROCESS.—Under the process established under paragraph (1)—

(A) providers described in such paragraph shall be provided at least a four month period prior to January 1, 2022 to opt out of participating in the public health insurance option;

(B) no provider shall be subject to a penalty for not participating in the public health insurance option;

(C) the Secretary shall include information on how providers participating in Medicare who chose to opt out of participating in the public health insurance option may opt back in; and

(D) there shall be an annual enrollment period in which providers may decide whether to participate in the public health insurance option.

(3) RULEMAKING.—Not later than April 30, 2021, the Secretary shall promulgate rules (pursuant to notice and comment) for the process described in paragraph (1).

(c) Limitations On Review.—There shall be no administrative or judicial review of a payment rate or methodology established under this section or under section 324.

SEC. 115. INNOVATIVE PAYMENT AND DELIVERY SYSTEM REFORMS.

(a) In General.—For plan years beginning with 2022, the Secretary may utilize innovative payment mechanisms and policies to determine payments for items and services under the public health insurance option. The payment mechanisms and policies under this section may include patient-centered medical home and other care management payments, accountable care organizations, value-based purchasing, bundling of services, differential payment rates, performance or utilization based payments, partial capitation, and direct contracting with providers.

(b) Requirements For Innovative Payments.—The Secretary shall design and implement the payment mechanisms and policies under this section in a manner that—

(1) seeks to—

(A) improve health outcomes;

(B) reduce health disparities (including racial, ethnic, and other disparities);

(C) provide efficient and affordable care;

(D) address geographic variation in the provision of health services; or

(E) prevent or manage chronic illness; and

(2) promotes care that is integrated, patient-centered, quality, and efficient.

(c) Encouraging The Use Of High Value Services.—To the extent allowed by the benefit standards applied to all Exchange-participating health benefits plans, the public health insurance option may modify cost-sharing and payment rates to encourage the use of services that promote health and value.

(d) Promotion Of Delivery System Reform.—The Secretary shall monitor and evaluate the progress of payment and delivery system reforms under this Act and shall seek to implement such reforms subject to the following:

(1) To the extent that the Secretary finds a payment and delivery system reform successful in improving quality and reducing costs, the Secretary shall implement such reform on as large a geographic scale as practical and economical.

(2) The Secretary may delay the implementation of such a reform in geographic areas in which such implementation would place the public health insurance option at a competitive disadvantage.

(3) The Secretary may prioritize implementation of such a reform in high cost geographic areas or otherwise in order to reduce total program costs or to promote high value care.

(e) Non-Uniformity Permitted.—Nothing in this subtitle shall prevent the Secretary from varying payments based on different payment structure models (such as accountable care organizations and medical homes) under the public health insurance option for different geographic areas.

SEC. 116. PROVIDER PARTICIPATION.

(a) In General.—The Secretary shall establish conditions of participation for health care providers under the public health insurance option.

(b) Licensure Or Certification.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not allow a health care provider to participate in the public health insurance option unless such provider is appropriately licensed, certified, or otherwise permitted to practice under State law.

(2) SPECIAL RULE FOR IHS FACILITIES AND PROVIDERS.—The requirements under paragraph (1) shall not apply to—

(A) a facility that is operated by the Indian Health Service;

(B) a facility operated by an Indian Tribe or tribal organization under the Indian Self-Determination Act (Public Law 93–638);

(C) a health care professional employed by the Indian Health Service; or

(D) a health care professional—

(i) who is employed to provide health care services in a facility operated by an Indian Tribe or tribal organization under the Indian Self-Determination Act; and

(c) Payment Terms For Providers.—

(1) PHYSICIANS.—The Secretary shall provide for the annual participation of physicians under the public health insurance option, for which payment may be made for services furnished during the year, in one of 2 classes:

(A) PREFERRED PHYSICIANS.—Those physicians who agree to accept the payment under section 114 (without regard to cost-sharing) as the payment in full.

(B) PARTICIPATING, NON-PREFERRED PHYSICIANS.—Those physicians who agree not to impose charges (in relation to the payment described in section 114 for such physicians) that exceed the sum of the in-network cost-sharing plus 15 percent of the total payment for each item and service. The Secretary shall reduce the payment described in section 114 for such physicians.

(2) OTHER PROVIDERS.—The Secretary shall provide for the participation (on an annual or other basis specified by the Secretary) of health care providers (other than physicians) under the public health insurance option under which payment

shall only be available if the provider agrees to accept the payment under section 114 (without regard to cost-sharing) as the payment in full.

(d) Exclusion Of Certain Providers.—The Secretary shall exclude from participation under the public health insurance option a health care provider that is excluded from participation in a Federal health care program, as defined in section 1320a–7 of title 42, United States Code.

SEC. 117. ELIGIBILITY FOR SUBSIDIES.

Chapter 5000A(f)(1)(B) of title 26, United States Code, disallowing refundable credits for health insurance through the Health Insurance Exchange under Chapter 36B of title 26, when a minimally qualified employer-sponsored plan is available, is repealed.

SEC. 118. REMOVING EMPLOYER'S HEALTH INSURANCE MANDATE.

Chapter 2980H of title 26, United States Code, penalizing applicable large employers who fail to offer minimum essential coverage, is repealed.

SEC. 119. PRIVACY, SECURITY, AND ANTI-FRAUD PROVISIONS.

(a) APPLICATION OF HEALTH INFORMATION PRIVACY, SECURITY, AND ELECTRONIC TRANSACTION REQUIREMENTS.—Part C of title XI of the Social Security Act, relating to standards for protections against the wrongful disclosure of individually identifiable health information, health information security, and the electronic exchange of health care information, shall apply to the public health insurance option in the same manner as such part applies to other health plans (as defined in section 1171(5) of such Act).

(b) APPLICATION OF FRAUD AND ABUSE PROVISIONS.—Provisions of civil law identified by the Secretary by regulation, in consultation with the Inspector General of the Department of Health and Human Services, that impose sanctions with respect to waste, fraud, and abuse under Medicare, such as sections 3729 through 3733 of title 31, United States Code (commonly known as the False Claims Act), shall also apply to the public health insurance option.

(c) APPLICATION OF HIPAA INSURANCE REQUIREMENTS.—The requirements of sections 2701 through 2792 of the Public Health Service Act shall apply to the public health insurance option in the same manner as they apply to health insurance coverage offered by a health insurance issuer in the individual market.

SEC. 120. REIMBURSEMENT OF SECRETARY OF VETERANS AFFAIRS.

The Secretary of Health and Human Services shall seek to enter into a memorandum of understanding with the Secretary of Veterans Affairs regarding the recovery of costs related to non-service-connected care or services provided by the Secretary of Veterans Affairs to an individual covered under the public health insurance option in a manner consistent with recovery of costs related to non-service-connected care from private health insurance plans.

SEC. 121. REQUIRING NEGOTIATION OF PRESCRIPTION DRUG PRICES.

Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) and inserting the following new subsection:

"(i) Negotiation of lower drug prices.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, for plan years beginning on or after the date of the enactment of this subsection, negotiate with pharmaceutical manufacturers the prices (including discounts, rebates, and other price concessions) that may be charged to PDP sponsors and MA organizations during a negotiated price period (as specified by the Secretary) for covered part D drugs for part D eligible individuals who are enrolled under a prescription drug plan or under an MA–PD plan. In negotiating such prices under this section, the Secretary shall take into account the following factors:

"(A) The comparative clinical effectiveness and cost effectiveness, when available from an impartial source, of such drug.

"(B) The budgetary impact of providing coverage of such drug.

"(C) The number of similarly effective drugs or alternative treatment regimens for each approved use of such drug.

"(D) The associated financial burden on patients that utilize such drug.

"(E) The associated unmet patient need for such drug.

"(F) The total revenues from global sales obtained by the manufacturer for such drug and the associated investment in research and development of such drug by the manufacturer.

"(2) FINALIZATION OF NEGOTIATED PRICE.—The negotiated price of each covered part D drug for a negotiated price period shall be finalized not later than 30 days before a PDP sponsor is required to submit information described in subsection (b)(2) for the first plan year in such negotiated price period.

PART II - PAID FAMILY LEAVE

SEC. 131. DEFINITIONS.

(a) In this Act, the following definitions apply:

(1) CAREGIVING DAY.—The term "caregiving day" means, with respect to an individual, a calendar day in which the individual engaged in qualified caregiving.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of Social Security.

(3) DEPUTY COMMISSIONER.—The term "Deputy Commissioner" means the Deputy Commissioner who heads the Office of Paid Family and Medical Leave established under section 4(a).

(4) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who is entitled to a benefit under section 133 for a particular month, upon filing an application for such benefit for such month.

(5) INITIAL WAITING PERIOD.—The term "initial waiting period" means a period beginning with the first caregiving day of an individual occurring during the individual's benefit period and ending after the earlier of—

(A) the fifth caregiving day of the individual occurring during the benefit period; or

(B) the month preceding the first month in the benefit period during which occur not less than 15 caregiving days of the individual.

(6) QUALIFIED CAREGIVING.—The term "qualified caregiving" means any activity engaged in by an individual, other than regular employment, for a reason for which an eligible employee would be entitled to leave under subparagraphs (A) through (E) of paragraph (1) of section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)).

(7) SELF-EMPLOYMENT INCOME.—The term "self-employment income" has the same meaning as such term in section 211(b) of such Act (42 U.S.C. 411(b)).

(8) STATE.—The term "State" means any State of the United States or the District of Columbia or any territory or possession of the United States.

(9) WAGES.—The term "wages", except as such term is used in subsection (h)(2) of section 133, has the same meaning as such term in section 209 of the Social Security Act (42 U.S.C. 409).

(10) 90-DAY LIMITATION PERIOD.—The term "90-day limitation period" means a period—

(A) beginning with the first caregiving day of an individual occurring during the individual's benefit period and after the expiration of the individual's 5-day waiting period, if applicable; and

(B) ending with the 90th caregiving day of the individual occurring during the benefit period and after the expiration of the 5-day waiting period, disregarding any caregiving day of the individual occurring during any month in the benefit period after the first 20 caregiving days of the individual occurring during such month.

SEC. 132. OFFICE OF PAID FAMILY AND MEDICAL LEAVE.

(a) Establishment of Office.—There is established within the Social Security Administration an office to be known as the Office of Paid Family and Medical Leave. The Office shall be headed by a Deputy Commissioner who shall be appointed by the Commissioner.

(b) Responsibilities of Deputy Commissioner.—The Commissioner, acting through the Deputy Commissioner, shall be responsible for—

(1) hiring personnel and making employment decisions with regard to such personnel;

(2) issuing such regulations as may be necessary to carry out the purposes of this Act;

(3) entering into cooperative agreements with other agencies and departments to ensure the efficiency of the administration of the program;

(4) determining eligibility for family and medical leave insurance benefits under section 133;

(5) determining benefit amounts for each month of such eligibility and making timely payments of such benefits to entitled individuals in accordance with such section;

(6) establishing and maintaining a system of records relating to the administration of such section;

(7) preventing fraud and abuse relating to such benefits;

(8) providing information on request regarding eligibility requirements, the claims process, benefit amounts, maximum benefits payable, notice requirements, nondiscrimination rights, confidentiality, coordination of leave under this Act and other laws, collective bargaining agreements, and employer policies;

(9) annually providing employers a notice informing employees of the availability of such benefits;

(10) annually making available to the public a report that includes the number of individuals who received such benefits, the purposes for which such benefits were received, and an analysis of utilization rates of such benefits by gender, race, ethnicity, and income levels; and

(11) tailoring culturally and linguistically competent education and outreach toward increasing utilization rates of benefits under such section.

(c) Availability of data.—The Commissioner shall make available to the Deputy Commissioner such data as the Commissioner determines necessary to enable the Deputy Commissioner to effectively carry out the responsibilities described in subsection (b).

SEC. 133. FAMILY AND MEDICAL LEAVE INSURANCE BENEFIT PAYMENTS.

(a) In general.—Every individual who—

(1) is insured for disability insurance benefits (as determined under section 223(c) of the Social Security Act (42 U.S.C. 423(c))) at the time such individual's application is filed;

(2) has earned income from employment during the 12 months prior to the month in which the application is filed;

(3) has filed an application for a family and medical leave insurance benefit in accordance with subsection (d); and

(4) was engaged in qualified caregiving, or anticipates being so engaged, during the period that begins 90 days before the date on which such application is filed or within 30 days after such date, shall be entitled to such a benefit for each month in the benefit period specified in subsection (c), not to exceed 90 caregiving days per benefit period.

(b) Benefit amount.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the benefit amount to which an individual is entitled under this section for a month shall be an amount equal to the greater of—

(A) the lesser of 1/18 of the wages and self-employment income of the individual for the calendar year in which such wages and self-employment income are the highest among the most recent three calendar years, or the maximum benefit amount determined under paragraph (2); or

(B) the minimum benefit amount determined under paragraph (2), multiplied by the quotient (not greater than 1) obtained by dividing the number of caregiving days of the individual in such month by 20.

(2) ANNUAL INCREASE OF MAXIMUM AND MINIMUM BENEFIT AMOUNTS.—

(A) For individuals who initially become eligible for family and medical leave insurance benefits in the first full calendar year after the date of enactment of this Act, the maximum monthly benefit amount and the minimum monthly benefit amount shall be $4,000 and $580, respectively.

(B) For individuals who initially become eligible for family and medical leave insurance benefits in any calendar year after such first full calendar year the maximum benefit amount and the minimum benefit amount shall be, respectively, the product of the corresponding amount determined with respect to the first calendar year under subparagraph (A) and the quotient obtained by dividing—

(i) the national average wage index (as defined in section 209(k)(1) of the Social Security Act (42 U.S.C. 409(k)(1))) for the second calendar year preceding the calendar year for which the determination is made, by

(ii) the national average wage index (as so defined) for 2018.

(3) LIMITATIONS ON BENEFITS PAID.—

(A) NONPAYABLE WAITING PERIOD.—Any calendar day during an individual's benefit period which occurs before the expiration of an initial waiting period shall not be taken into account under this subsection as a caregiving day of the individual.

(B) LIMITATION ON TOTAL BENEFITS PAID.—Any calendar day during an individual's benefit period which occurs after the expiration of a 90-day limitation

period shall not be taken into account under this subsection as a caregiving day of the individual.

(4) REDUCTION IN BENEFIT AMOUNT ON ACCOUNT OF RECEIPT OF CERTAIN BENEFITS.—A benefit under this section for a month shall be reduced by the amount, if any, in certain benefits (as determined under regulations issued by the Commissioner) as may be otherwise received by an individual. For purposes of the preceding sentence, certain benefits include—

(A) periodic benefits on account of such individual's total or partial disability under a workmen's compensation law or plan of the United States or a State; and

(B) periodic benefits on account of an individual's employment status under an unemployment law or plan of the United States or a State.

(5) COORDINATION OF BENEFIT AMOUNT WITH CERTAIN STATE BENEFITS.—A benefit received under this section shall be coordinated, in a manner determined by regulations issued by the Commissioner, with the periodic benefits received from temporary disability insurance or family leave insurance programs under any law or plan of a State, a political subdivision (as that term is used in section 218(b)(2) of the Social Security Act (42 U.S.C. 418(b)(2))), or an instrumentality of two or more States (as that term is used in section 218(g) of the Social Security Act (42 U.S.C. 418(g))).

(c) Benefit period.—

(1) IN GENERAL.—Except as provided in paragraph (2), the benefit period specified in this subsection shall begin on the 1st day of the 1st month in which the individual meets the criteria specified in paragraphs (1), (2), and (3) of subsection (a), and shall end on the date that is 365 days after the 1st day of the benefit period.

(2) RETROACTIVE BENEFITS.—In the case of an application for benefits under this section for qualified caregiving in which the individual was engaged at any time during the 90-day period preceding the date on which such application is submitted, the benefit period specified in this subsection shall begin on the later of—

(A) the 1st day of the 1st month in which the individual engaged in such qualified caregiving; or

(B) the 1st day of the 1st month that begins during such 90-day period,and shall end on the date that is 365 days after the 1st day of the benefit period.

(d) Application.—An application for a family and medical leave insurance benefit shall include—

(1) a statement that the individual was engaged in qualified caregiving, or anticipates being so engaged, during the period that begins 90 days before the date on which the application is submitted or within 30 days after such date;

(2) if the qualified caregiving described in the statement in paragraph (1) is engaged in by the individual because of a serious health condition of the individual or a relative of the individual, a certification, issued by the health care provider treating such serious health condition, that affirms the information specified in paragraph (1) and contains such information as the Commissioner shall specify in regulations, which shall be no more than the information that is required to be stated under section 103(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613(b));

(3) if such qualified caregiving is engaged in by the individual for any other authorized reason, a certification, issued by a relevant authority determined under regulations issued by the Commissioner, that affirms the circumstances giving rise to such reason; and

(4) an attestation from the applicant that his or her employer has been provided with written notice of the individual's intention to take family or medical leave, if the individual has an employer, or to the Commissioner in all other cases.

(e) Ineligibility; disqualification.—

(1) INELIGIBILITY FOR BENEFIT.—An individual shall be ineligible for a benefit under this section for any month for which the individual is entitled to—

(A) disability insurance benefits under section 223 of the Social Security Act (42 U.S.C. 423) or a similar permanent disability program under any law or plan of a State or political subdivision or instrumentality of a State (as such terms are used in section 218 of the Social Security Act (42 U.S.C. 418));

(B) monthly insurance benefits under section 202 of such Act (42 U.S.C. 402) based on such individual's disability (as defined in section 223(d) of such Act (42 U.S.C. 423(d))); or

(C) benefits under title XVI of such Act (42 U.S.C. 1381 et seq.) based on such individual's status as a disabled individual (as determined under section 1614 of such Act (42 U.S.C. 1382c)).

(2) DISQUALIFICATION.—An individual who has been convicted of a violation under section 208 of the Social Security Act (42 U.S.C. 408) or who has been found to have used false statements to secure benefits under this section, shall be ineligible for benefits under this section for a 1-year period following the date of such conviction.

(f) Review of eligibility and benefit payment determinations.—

(1) ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—The Commissioner shall provide notice to an individual applying for benefits under this section of the initial determination of eligibility for such benefits, and the estimated benefit amount for a month in which one caregiving day of the individual occurs, as soon as practicable after the application is received.

(B) REVIEW.—An individual may request review of an initial adverse determination with respect to such application at any time before the end of the 20-day period that begins on the date notice of such determination is received, except that such 20-day period may be extended for good cause. As soon as practicable after the individual requests review of the determination, the Commissioner shall provide notice to the individual of a final determination of eligibility for benefits under this section.

(2) BENEFIT PAYMENT DETERMINATIONS.—

(A) IN GENERAL.—The Commissioner shall make any monthly benefit payment to an individual claiming benefits for a month under this section, or provide notice of the reason such payment will not be made if the Commissioner determines that the individual is not entitled to payment for such month, not later than 20 days after the individual's monthly benefit claim report for such month is received. Such monthly report shall be filed with the Commissioner not later than 15 days after the end of each month.

(B) REVIEW.—If the Commissioner determines that payment will not be made to an individual for a month, or if the Commissioner determines that payment shall be made based on a number of caregiving days in the month inconsistent with the number of caregiving days in the monthly benefit claim report of the individual for such month, the individual may request review of such determination at any time before the end of the 20-day period that begins on the date notice of such determination is received, except that such 20-day period may be extended for good cause. Not later than 20 days after the individual requests review of the determination, the Commissioner shall provide notice to the individual of a final

determination of payment for such month, and shall make payment to the individual of any additional amount not included in the initial payment to the individual for such month to which the Commissioner determines the individual is entitled.

(3) BURDEN OF PROOF.—An application for benefits under this section and a monthly benefit claim report of an individual shall each be presumed to be true and accurate, unless the Commissioner demonstrates by a preponderance of the evidence that information contained in the application is false.

(4) DEFINITION OF MONTHLY BENEFIT CLAIM REPORT.—For purposes of this subsection, the term "monthly benefit claim report" means, with respect to an individual for a month, the individual's report to the Commissioner of the number of caregiving days of the individual in such month, which shall be filed no later than 15 days after the end of each month.

(5) REVIEW.—All final determinations of the Commissioner under this subsection shall be reviewable according to the procedures set out in section 205 of the Social Security Act (42 U.S.C. 405).

(g) Relationship with State law; employer benefits.—

(1) IN GENERAL.—This section does not preempt or supercede any provision of State or local law that authorizes a State or local municipality to provide paid family and medical leave benefits similar to the benefits provided under this section.

(2) GREATER BENEFITS ALLOWED.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid leave or other leave rights to employees than the rights established under this Act.

(h) Prohibited Acts; enforcement.—

(1) IN GENERAL.—It shall be unlawful for any person to discharge or in any other manner discriminate against an individual because the individual has applied for, indicated an intent to apply for, or received family and medical leave insurance benefits.

(2) CIVIL ACTION BY AN INDIVIDUAL.—

(A) LIABILITY.—Any person who violates paragraph (1) shall be liable to any individual employed by such person who is affected by the violation—

(i) for damages equal to the sum of—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation, such as the cost of providing care, up to a sum equal to 60 calendar days of wages or salary for the individual;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if a person who has violated paragraph (1) proves to the satisfaction of the court that the act or omission which violated paragraph (1) was in good faith and that the person had reasonable grounds for believing that the act or omission was not a violation of paragraph (1), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any person in any Federal or State court of competent jurisdiction by any individual for and on behalf of—

(i) the individual; or

(ii) the individual and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any individual shall terminate—

(i) on the filing of a complaint by the Commissioner in an action under paragraph (5) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(I) to such individual by the person responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Commissioner in an action under paragraph (3) in which a recovery is sought of the damages described in subparagraph (A)(I) owing to an individual by a person liable under subparagraph (A), unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Commissioner.

(3) ACTION BY THE COMMISSIONER.—

(A) CIVIL ACTION.—The Commissioner may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (2)(A)(I).

(B) SUMS RECOVERED.—Any sums recovered by the Commissioner pursuant to subparagraph (A) shall be held in a special deposit account and shall be paid, on order of the Commissioner, directly to each individual affected. Any such sums not paid to an individual because of inability to do so within a period of 3 years shall be deposited into the Federal Family and Medical Leave Insurance Trust Fund.

(4) LIMITATION.—

(A) IN GENERAL.—An action may be brought under this subsection not later than 3 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) COMMENCEMENT.—An action brought by the Commissioner under this subsection shall be considered to be commenced on the date when the complaint is filed.

(5) ACTION FOR INJUNCTION BY COMMISSIONER.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Commissioner—

(A) to restrain violations of paragraph (1), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to an individual; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(i) Special rule for railroad employees.—For purposes of subsection (a)(1), an individual shall be deemed to be insured for disability insurance benefits if the individual would be so insured if the individual's service as an employee (as defined in the section 1(b) of the Railroad Retirement Act of 1974) after December 31, 1936, were included within the meaning of the term "employment" for purposes of title II of the Social Security Act (42 U.S.C. 401 et seq.).

(j) Determination of whether an activity constitutes qualified caregiving.—

(1) IN GENERAL.—For purposes of determining whether an activity engaged in by an individual constitutes qualified caregiving under this section—

(A) the term "spouse" (as used in section 102(a) of the Family and Medical Leave Act (29 U.S.C. 2612(a))) includes the individual's domestic partner; and

(B) the term "son or daughter" (as used in such section) includes a son or daughter (as defined in section 101 of such Act) of the individual's domestic partner.

(2) DOMESTIC PARTNER.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "domestic partner", with respect to an individual, means another individual with whom the individual is in a committed relationship.

(B) COMMITTED RELATIONSHIP DEFINED.—The term "committed relationship" means a relationship between two individuals (each at least 18 years of age) in which each individual is the other individual's sole domestic partner and both individuals share responsibility for a significant measure of each other's common welfare. The term includes any such relationship between two individuals, including individuals of the same sex, that is granted legal recognition by a State or political subdivision of a State as a marriage or analogous relationship, including a civil union or domestic partnership.

(k) Applicability of certain Social Security Act provisions.—The provisions of sections 204, 205, 206, and 208 of the Social Security Act shall apply to benefit payments authorized by and paid out pursuant to this section in the same way that such provisions apply to benefit payments authorized by and paid out pursuant to title II of such Act.

(l) Effective date for applications.—Applications described in this section may be filed beginning 18 months after the date of enactment of this Act.

SEC. 134. INSURANCE TRUST FUND ESTABLISHED.

(a) In general.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Family and Medical Leave Insurance Trust Fund". The Federal Family and Medical Leave Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) and such amounts as may be appropriated to, or deposited in, the Federal Family and Medical Leave Insurance Trust Fund as provided in this section.

(b) Authorization of Appropriations.—

(1) IN GENERAL.—There is authorized to be appropriated to the Federal Family and Medical Leave Insurance Trust Fund out of moneys in the Treasury not otherwise appropriated—

(A) for the first three fiscal years beginning after the date of enactment of this Act, such sums as may be necessary for the Commissioner to administer the office established under section 132 and pay the benefits under section 133;

(B) 100 percent of the taxes imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury pursuant to subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such wages;

(C) 100 percent of the taxes imposed by section 1401(c) of such Code with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income; and

(D) 100 percent of the taxes imposed by sections 3201(c), 3211(c), and 3221(c) of such Code with respect to compensation (as defined in section 3231 of such Code) reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such compensation.

(2) REPAYMENT OF INITIAL APPROPRIATION.—Amounts appropriated pursuant to subparagraph (A) of paragraph (1) shall be repaid to the Treasury of the United States not later than 10 years after the first appropriation is made pursuant to such subparagraph.

(3) TRANSFER TO TRUST FUND.—The amounts described in paragraph (2) shall be transferred from time to time from the general fund in the Treasury to the Federal Family and Medical Leave Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in such paragraph, paid to or deposited into the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were inconsistent with the taxes specified in such paragraph.

(c) Management of Trust Fund.—The provisions of subsections (c), (d), (e), (f), (i), and (m) of section 201 of the Social Security Act (42 U.S.C. 401) shall apply with respect to the Federal Family and Medical Leave Insurance Trust Fund in the same manner as such provisions apply to the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund.

(d) Benefits paid from Trust Fund.—Benefit payments required to be made under section 133 shall be made only from the Federal Family and Medical Leave Insurance Trust Fund.

(e) Administration.—There are authorized to be made available for expenditure, out of the Federal Family and Medical Leave Insurance Trust Fund, such sums as may be necessary to pay the costs of the administration of section 133, including start-up costs, technical assistance, outreach, education, evaluation, and reporting.

(f) Prohibition.—No funds from the Social Security Trust Fund or appropriated to the Social Security Administration to administer Social Security programs may be used for Federal Family and Medical Leave Insurance benefits or administration set forth under this Act.

SEC. 135. INTERNAL REVENUE CODE PROVISIONS.

(a) In general.—

(1) EMPLOYEE CONTRIBUTION.—Section 3101 of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

"(c) Family and medical leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the applicable percentage of the wages (as defined in section 3121(a)) received by the individual with respect to employment (as defined in section 3121(b)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.25 percent in the case of wages received in any calendar year.".

(2) EMPLOYER CONTRIBUTION.—Section 3111 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

"(c) Family and medical leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.25 percent in the case of wages paid in any calendar year.".

(3) SELF-EMPLOYMENT INCOME CONTRIBUTION.—

(A) IN GENERAL.—Section 1401 of such Code is amended—

(i) by redesignating subsection (c) as subsection (d), and

(ii) by inserting after subsection (b) the following:

"(c) Family and medical leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percentage of the amount of the self-employment income for such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.5 percent in the case of self-employment income in any taxable year.".

(B) EXCLUSION OF CERTAIN NET EARNINGS FROM SELF-EMPLOYMENT.—Section 1402(b)(1) of such Code is amended by striking "tax imposed by section 1401(a)" and inserting "taxes imposed by subsections (a) and (c) of section 1401".

(b) Railroad Retirement Tax Act.—

(1) EMPLOYEE CONTRIBUTION.—Section 3201 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

"(c) Family and Medical Leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.25 percent in the case of compensation received in any calendar year.".

(2) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Section 3211 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

"(c) Family and Medical Leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.25 percent in the case of compensation received in any calendar year.".

(3) EMPLOYER CONTRIBUTION.—Section 3221 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

(B) by inserting after subsection (b) the following:

"(c) Family and Medical Leave insurance.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.25 percent in the case of compensation paid in any calendar year.".

(c) Conforming amendments.—

(1) Section 6413(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1)—

(i) by inserting ", section 3101(c)," after "by section 3101(a)"; and

(ii) by striking "both" and inserting "each"; and

(B) in paragraph (2), by inserting "or 3101(c)" after "3101(a)" each place it appears.

(2) Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by inserting "(other than sections 3201(c), 3211(c), and 3221(c))" before the period at the end.

(d) Effective date.—The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

SEC. 136. REGULATIONS.

(a) The Commissioner, in consultation with the Secretary of Labor, shall prescribe regulations necessary to carry out this Act. In developing such regulations, the Commissioner shall consider the input from a volunteer advisory body comprised of not more than 15 individuals, including experts in the relevant subject matter and officials charged with implementing State paid family and medical leave insurance programs. The Commissioner shall take such programs into account when proposing regulations. Such individuals shall be appointed as follows:

(1) Five individuals to be appointed by the President.

(2) Three individuals to be appointed by the majority leader of the Senate.

(3) Two individuals to be appointed by the minority leader of the Senate.

(4) Three individuals to be appointed by the Speaker of the House of Representatives.

(5) Two individuals to be appointed by the minority leader of the House of Representatives.

SEC. 137. GAO STUDY.

(a) Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on family and medical leave insurance benefits paid under section 133 for any month during the 1-year period beginning on January 1, 2021. The report shall include the following:

(1) An identification of the total number of applications for such benefits filed for any month during such 1-year period, and the average number of days occurring in the period beginning on the date on which such an application is received and ending on the date on which the initial determination of eligibility with respect to the application is made.

(2) An identification of the total number of requests for review of an initial adverse determination of eligibility for such benefits made during such 1-year period, and the average number of days occurring in the period beginning on the date on which such review is requested and ending on the date on which the final determination of eligibility with respect to such review is made.

(3) An identification of the total number of monthly benefit claim reports for such benefits filed during such 1-year period, and the average number of days occurring in the period beginning on the date on which such a claim report is received and ending on the date on which the initial determination of eligibility with respect to the claim report is made.

(4) An identification of the total number of requests for review of an initial adverse determination relating to a monthly benefit claim report for such benefits made during such 1-year period, and the average number of days occurring in the period beginning on the date on which such review is requested and ending on the date on which the final determination of eligibility with respect to such review is made.

(5) An identification of any excessive delay in any of the periods described in paragraphs (1) through (4), and a description of the causes for such delay.

PART III - AMERICAN UNION BANKING

SEC. 141. DEFINITIONS.

(a) In this Act**:**

(1) DIGITAL DOLLARS.—The term "digital dollars" means dollar balances consisting of digital ledger entries recorded as liabilities in the accounts of any Federal reserve bank.

(2) DIGITAL DOLLAR WALLETS.—The term "digital dollar wallet" means a digital dollar wallet or account, maintained by a Federal reserve bank on behalf of any person, for the purpose of holding digital dollar balances.

(3) MEMBER BANK.—The term "member bank" means any national bank, State bank, or bank or trust company which has become a member of one of the reserve banks created by the Federal Reserve Act (12 U.S.C. 221 et seq.), or the Postal Service pursuant to Sec. 142.

(4) PASS-THROUGH DIGITAL DOLLAR WALLETS.—The term "pass-through digital dollar wallet" means a digital dollar wallet or account, maintained by a member bank on behalf of any person, entitling that person to a pro rata share of a pooled reserve balance that the member bank maintains at any Federal reserve bank.

(5) POSTAL RETAIL FACILITY.—The term "postal retail facility"—

(A) means post office, post office branch, post office classified station, or other facility that is operated by the Postal Service, the primary function of which is to provide retail postal services; and

(B) does not include a contractor-operated facility offering postal services.

(6) POSTAL SERVICE.—The term "Postal Service" means the United States Postal Service.

SEC. 142. AUTHORIZING THE POST OFFICE TO OFFER FINANCIAL SERVICES.

(a) In general.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking "and" at the end;

(B) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(9) to provide basic financial services, including—

"(A) low-cost, small-dollar loans, not to exceed $500 at a time, or $1,000 from 1 year of the issuance of the initial loan, as adjusted annually by the Postmaster General to reflect any change in the Consumer Price Index for All Urban Consumers of the Department of Labor;

"(B) alone, or in partnership with depository institutions, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and Federal credit unions, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), small checking accounts, and interest-bearing savings accounts, not to exceed the greater of—

"(i) $20,000 per account; and

"(ii) 25 percent of the median account balance reported in the Federal Deposit Insurance Corporation’s quarterly Consolidated Reports of Condition and Income;

"(C) transactional services, including debit cards, automated teller machines, online checking accounts, check-cashing services, automatic bill-pay, mobile banking, or other products that allows users to engage in the financial services described in this paragraph;

"(D) remittance services, including the receiving and sending of money to domestic or foreign recipients;

"(E) pass-through digital dollar wallets, pursuant to Sec. 143 of this Act; and

"(F) such other basic financial services as the Postal Service determines appropriate in the public interest;

"(10) to set interest rates and fees for the financial instruments and products provided by the Postal Service that—

"(A) ensures that the customer access to the products and the public interest is given significant consideration;

"(B) ensures that interest rates on savings accounts are at least 100 percent of the Federal Deposit Insurance Corporation’s weekly national rate on nonjumbo savings accounts; and

"(C) ensures that the total interest rates on small-dollar loan amounts—

"(i) are inclusive of interest, fees, charges, and ancillary products and services; and

"(ii) do not exceed 101 percent of the Treasury 1 month constant maturity rate; and

"(11) allow capitalization of an amount deemed necessary by the Postmaster General that serve the purpose of this section, through of an account separate from products not included or allowed in this section, for the purposes of enacting the provisions of this section."; and

(2) by adding at the end the following:

"(f) Any net profits from services provided under this section that are not greater than the amount of initial capitalization—

"(1) shall be reported separately from mail service and delivery;

"(2) in the case of any amount appropriated, shall be returned to the general fund of the Treasury not later than 9 years after the date of enactment of this subsection; and

"(3) may be repaid to the offering organization or organizations if the Postmaster General determines that the services provided in this subsection are not reduced as a result.".

(b) No bank charter.—The United States Postal Service shall not be granted a bank charter, become an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or engage in traditional banking activities such as lending.

(c) UCC.—The United States Postal Service shall be subject to the provisions of article 4 of the Uniform Commercial Code.

(d) Regulations.—The Postmaster General, in consultation with the Secretary of the Treasury, the Bureau of Consumer Financial Protection, the Board of Governors of the Federal Reserve System, and the Federal banking agencies, shall promulgate regulations carrying out this section and the amendments made by this section.

(e) Technical and conforming amendment.—Section 404(e)(2) of title 39, United States Code, is amended by adding at the end the following: "The preceding sentence shall not apply to any financial service offered by the Postal Service under subsection (a)(9).".

(f) Rule of construction.—The services offered by the United States Postal Service under section 404 of title 39, United States Code—

(1) shall be considered permissible non-banking activities in accordance with section 225.28 of title 12, Code of Federal Regulations; and

(2) shall not be considered the business of banking under the seventh paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

SEC. 143. AUTHORITY AND MANDATE FOR FEDERAL RESERVE BANKS TO MAINTAIN DIGITAL DOLLAR WALLETS FOR THE GENERAL PUBLIC.

(a) Authorization.—Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal reserve bank may maintain digital dollar wallets.

(b) Mandate.— All Federal reserve banks shall, not later than June 30, 2021, make digital dollar wallets available to all residents and citizens of the United States and to businesses domiciled in the United States.

(c) Terms of digital dollar wallets.—Digital dollar wallets—

(1) shall not be subject to any account fees, minimum balances, or maximum balances, and shall pay interest at a rate not below the greater of the rate of interest on required reserves and the rate of interest on excess reserves;

(2) shall provide debit cards, online account access, automatic bill-pay, mobile banking, customer service and other such services as the Board of Governors of the Federal Reserve System determines appropriate in the public interest, provided that digital dollar wallets shall not include overdraft coverage;

(3) shall provide, in conjunction with the Postal Service, access to automatic teller machines to be maintained on behalf of the Board of Governors of the Postal Service at all postal retail facilities;

(4) shall be branded in all account statements, marketing materials, and other communications as "FedAccounts" maintained by the Federal reserve bank on behalf of the United States of America;

(5) may not be closed or restricted on the basis of profitability considerations; and

(6) shall provide account holders with reasonable protection against losses caused by fraud or security breaches.

(d) Bank secrecy act.—In establishing and maintaining digital dollar wallets, each Federal reserve bank shall comply with—

(1) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(2) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(3) subchapter II of chapter 53 of title 31, United States Code.

(e) Privacy.—Section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), shall apply to digital dollar wallets, and the privacy obligations applicable to each Federal reserve bank and its employees, including with respect to criminal and civil penalties, shall mirror those applicable to Federal tax returns under sections 6103, 7213(a)(1), 7213A, and 7431 of the Internal Revenue Code of 1986.

SEC. 144. MEMBER BANKS TO MAINTAIN PASS-THROUGH DIGITAL DOLLAR WALLETS.

(a) Obligations of member banks.—

(1) IN GENERAL.—Member banks shall open and maintain pass-through digital dollar wallets for any persons, including persons enrolled under Sec. 101 of this act, who elect to deposit funds into pass-through digital dollar wallets.

(2) MAINTENANCE OF ASSETS.—

(A) IN GENERAL.—Each member bank shall establish and maintain a separate legal entity for the exclusive purpose of holding all assets and maintaining all liabilities associated with pass-through digital dollar wallets.

(B) CONTENTS.—The assets of any entity described in subparagraph (A) shall consist exclusively of a balance maintained in a master account at a Federal reserve bank, and the liabilities or obligations of the entity shall consist exclusively of an equal quantity of balances maintained by holders of pass-through digital dollar wallets.

(C) CAPITAL OR LIQUIDITY REGULATION.—The assets and liabilities of any legal entity described in subparagraph (A) shall not be deemed assets or liabilities

of the member bank or its affiliates for purposes of any capital or liquidity regulation promulgated by Federal or State banking authorities.

(D) ONLINE APPLICATION REQUIREMENT FOR LARGE BANKS.—Member banks with total consolidated assets greater than $10,000,000,000 shall promptly offer application, through online or telephonic means, for pass-through digital dollar wallets.

(b) Terms of pass-through digital dollar wallets.—

Pass-through digital dollar wallets—

(1) shall not be subject to any account fees, minimum balances, or maximum balances and shall pay interest at a rate not below the greater of the rate of interest on required reserves and the rate of interest on excess reserves, unless ;

(2) shall provide functionality and service levels no less favorable than those that the member bank offers for its existing transaction accounts, including with respect to debit cards, automated teller machines, online account access, automatic bill-pay, mobile banking, customer service and such other services as the Board of Governors of the Federal Reserve System determines appropriate in the public interest, provided that digital dollar wallets shall not include overdraft coverage;

(3) shall be prominently branded in all account statements, marketing materials, and other communications as "pass-through FedAccounts" maintained by the member bank on behalf of the Federal Reserve;

(4) may not be closed or restricted by the bank on the basis of profitability considerations; and

(5) shall provide account holders with reasonable protection against losses caused by fraud or security breaches.

(c) Reimbursement for costs.—

(1) IN GENERAL.—The Postal Service and each member bank with total consolidated assets of not greater than $10,000,000,000 shall be reimbursed each calendar quarter by the relevant Federal reserve bank for the actual and reasonable operational costs incurred by offering pass-through digital dollar wallets.

(2) REGULATIONS.—The Board of Governors of the Federal Reserve System shall promulgate such regulations as necessary to carry out this subsection.

(d) Authority of the board.—Member banks shall be subject to such regulations and obligations as may be imposed by the Board of Governors of the Federal Reserve System in connection with maintaining pass-through digital dollar wallets.

SEC. 145. NONMEMBER BANKS MAY OFFER PASS-THROUGH DIGITAL DOLLAR WALLETS.

(a) The Federal reserve banks shall permit the Postal Service, State nonmember banks and credit unions to open master accounts for the exclusive purpose of offering pass-through digital dollar wallets in compliance with the separate entity structure described in section 3(a), if—

(1) the pass-through digital dollar wallets comply with the terms set forth in section 3(b); and

(2) each State nonmember bank or credit union electing to offer pass-through digital dollar wallets shall be entitled to cost reimbursement in accordance with section 3(c).

SEC. 146. REGULATIONS.

The Board of Governors of the Federal Reserve System shall promulgate regulations carrying out this Act.

PART IV - AMERICAN VALUE FUND

SEC. 151. AMERICAN VALUE FUND.

(a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "American Value Fund".

(b) There is hereby appropriated to the American Value Fund amounts equal to the fees received into the Treasury from the following sources:

(1) Value added tax and import tax,

(2) Carbon fee-and-dividend,

(3) Plastic fee-and-dividend, and

(4) Sale of platinum coins.

(c) Repeal of Child Tax Credit

(1) Section 24 of title 26, United States Code, is repealed, effective January 1, 2021.

(2) The following sums are appropriated to the American Value Fund in the following fiscal years:

(A) 2021–$118,800,000,000

(B) 2022-$120,300,000,000

(C) 2023-$121,100,000,000

(D) 2024-$121,900,000,000

SEC. 152. VALUE ADDED TAX.

(a) In General.—The Internal Revenue Code (26 U.S. Code Subtitle A) is amended by inserting after Chapter 6 the following new chapters.

"CHAPTER 7 - VALUE ADDED TAX

"SUBCHAPTER A - IMPOSITION OF TAX
"SUBCHAPTER B - ACCOUNTING METHOD RULES
"SUBCHAPTER C - IMPORT TAX

"SUBCHAPTER A - IMPOSITION OF TAX

"SEC. 1601. Definitions
"SEC. 1602. Value Added Tax Imposed
"SEC. 1603. Voluntary Value Sharing

"Sec. 1601. Definitions.

"Any definition included in this chapter shall apply for all purposes of this chapter unless such definition is limited to the purposes of a particular chapter, section, or subsection, or the definition clearly would not be applicable in a particular context.

"Terms not defined in this chapter, but defined in the Internal Revenue Code of 1986, shall be interpreted in a manner consistent with the Internal Revenue Code of 1986, except to the extent such interpretation would be inconsistent with the principles and purposes of this chapter.

"(a) GROSS PROFITS.—The term ‘Gross profits’ means for a taxable year of a business entity, the amount by which the taxable receipts of the business entity for the taxable year exceed the deductible amounts for the business entity for the taxable year.

"(b) TAXABLE RECEIPTS.—The term ‘Taxable receipts’ means all receipts from the sale of property, use of property, and performance of services in the United States.

"(1) GAMES OF CHANCE.—Amounts received for playing games of chance by business entities engaging in the activity of providing such games shall be treated as receipts from the sale of property or services.

"(2) IN-KIND RECEIPTS.—The taxable receipts attributable to the receipt of property, use of property or services in whole or partial exchange for property, use of property or services equal the fair market value of the services or property received.

"(3) TAXES.—Taxable receipts do not include any excise tax, sales tax, custom duty, or other separately stated levy imposed by a Federal, State, or local government received by a business entity in connection with the sale of property or services or the use of property.

"(4) FINANCIAL RECEIPTS.—Taxable receipts do not include financial receipts.

"(c) FINANCIAL RECEIPTS.—The term ‘Financial receipts’ means

"(1) dividends and other distributions by a business entity,

"(2) proceeds from the sale of stock, other ownership interests in business entities, or other financial instruments,

"(3) proceeds from life insurance policies,

"(4) proceeds from annuities,

"(5) proceeds from currency hedging or exchanges, and

"(6) proceeds from other financial transactions.

"(d) FINANCIAL INSTRUMENT.—The term ‘Financial instrument’ means any

"(1) share of stock in a corporation,

"(2) equity ownership in any widely held or publicly traded partnership, trust, or other business entity,

"(3) note, bond, debenture, or other evidence of indebtedness,

"(4) interest rate, currency, or equity notional principal contract,

"(5) evidence or interest in, or a derivative financial instrument in, any financial instrument described in subparagraph (a), (b), (c), or (d), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a financial instrument or currency, and

"(6) a position which—

"(A) is not a financial instrument described in paragraph (1), (2), (3), (4), or (5),

"(B) is a hedge with respect to such a financial instrument, and

"(C) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into.

"(e) DEDUCTIBLE AMOUNTS.—The term 'Deductible amounts' means the cost of business purchases in the taxable year.

"(f) COST OF BUSINESS PURCHASES.—The term 'Cost of business purchases' means the acquisition of property, the use of property, or services in the United States for use in a business activity, and include, without limitation,

"(1) purchase or rental of real property,

"(2) purchase or rental of capital equipment,

"(3) purchase of supplies and inventory,

"(4) purchase of services from independent contractors providing business activities,

"(5) imports for use in a business activity, and

"(6) in the case of a business involving gambling, lotteries, or other games of chance, amounts paid to winners,

"but do not include—

"(1) payments for use of money or capital, such as interest or dividends (except to the extent that a portion so paid is a fee for financial intermediation services),

"(2) the acquisition of savings assets or other financial instruments,

"(3) property acquired outside the United States (but such property shall be taken into account as an import if imported),

"(4) services performed outside the United States (unless treated as imported into the United States),

"(5) compensation expenses for an individual (other than amounts paid to an individual in their capacity as a business entity),

"(6) taxes, except product taxes paid with respect to the property or services purchased,

"(7) political contributions to candidates, campaigns, causes, or parties, or

"(8) expenses relating to direct-to-consumer advertising of prescription drugs.

"(g) COMPENSATION EXPENSES.—The term ‘Compensation expenses’ means

"(1) wages, salaries or other cash payable for services,

"(2) any taxes imposed on the recipient that are withheld by the business entity,

"(3) the cost of property purchased to provide employees with compensation (other than property incidental to the provision of fringe benefits that are excluded from income under the individual tax),

"(4) the cost of fringe benefits which are includible in an employee’s, partner’s, or proprietor’s income under the value added tax (or are excluded solely because they constitute employee savings), including (without limitation)—

"(A) contributions to retirement and severance benefit plans,

"(B) premiums for the cost of health, life, accident, disability and other insurance policies for which the employee, members of his family, or persons designated by him or members of his family are the beneficiaries,

"(C) rental of parking spaces or parking fees (unless the parking space is used for a vehicle that is regularly used in a business activity);

"(D) employer paid educational benefits;

"(E) employer paid housing (other than housing provided for the convenience of the employer); and

"(F) employer paid meals (other than meals provided for the convenience of the employer).

"(h) PRODUCT TAX.—The term ‘Product tax’ means any excise tax, sales or use tax, custom duty, or other separately stated levy imposed by a Federal, State, or local government on the production, severance or consumption of property or on the provision of services, whether or not separately stated, and including any such taxes that are technically imposed on the seller of property or services. Product taxes do not include—

"(1) the import tax,

"(2) state and local property taxes,

"(3) franchise or income taxes,

"(4) payroll taxes and self-employment taxes, or

"(5) the value added tax.

"In the case of an import by a business entity, the cost of the import is the import price for purposes of the import tax. The import tax is not part of the cost of the import.

"(i) SAVINGS ASSET.—The term ‘Savings assets’ means stocks, bonds, securities, certificates of deposits, investments in partnerships and limited liability companies, shares of mutual funds, life insurance policies, annuities, and other similar savings or investment assets.

"(j) BUSINESS ENTITY.—The term ‘Business entity’ means any corporation, unincorporated association, partnership, limited liability company, proprietorship, independent contractor, individual, or any other person engaging in business activity in the United States. An individual shall be considered a business entity only with respect to the individual’s business activities.

"(k) BUSINESS ACTIVITY.—The term ‘Business activity’ means the sale of property or services, the leasing of property, the development of property or services for subsequent sale or use in producing property or services for subsequent sale. ‘Business activity’ does not include:

"(1) casual or occasional sales of property used by an individual (other than in a business activity), such as the sale by an individual of a vehicle used by the individual,

"(2) the performance of services by an employee for an employer that is a business entity with respect to the activity in which the employee is engaged,

"(3) business activity by a business entity where the taxable receipts are less than $50,000 for the taxable year, or

"(4) the performance of regular domestic household services (including babysitting, housecleaning, and lawn cutting) by an employee of an employer that is an individual or family.

"(l) EMPLOYEE.—The term ‘Employee’ means a person who works for another in return for financial or other compensation, and includes an individual partner who provides services to a partnership or an individual member who provides services to a limited liability company, or a proprietor with respect to compensation for services from his proprietorship.

"(m) INTERNAL REVENUE CODE OF 1986.—The term ‘Internal Revenue Code of 1986’ means the Internal Revenue Code of 1986 as in effect immediately before the enactment of the Competitive American Business Tax.

"(n) UNITED STATES.—The term ‘United States’ means the States and the District of Columbia.

"(o) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

"(p) DIRECT-TO-CONSUMER ADVERTISING.—For purposes of this section, the term ‘direct-to-consumer advertising’ means any dissemination, by or on behalf of a sponsor of a prescription drug product (as such term is defined in section 735(3) of the Federal Food, Drug, and Cosmetic Act), of an advertisement which—

"(1) is in regard to such prescription drug product, and

"(2) primarily targeted to the general public, including through—

"(A) publication in journals, magazines, other periodicals, and newspapers,

"(B) broadcasting through media such as radio, television, and telephone communication systems, direct mail, and billboards, and

"(C) dissemination on the Internet or through digital platforms (including social media, mobile media, web applications, digital applications, mobile applications, and electronic applications).".

"Sec. 1602. Value Added Tax Imposed.

"(a) Taxable Business Activity.—A value added tax is imposed on the sale of goods and services in the United States by a business entity.

"(b) Value Added Tax Imposed.—'Value added tax' is 15 percent of the gross profits of the business entity for the taxable year.

"(c) The Secretary of the Treasury shall promulgate rules, guidance, and regulations useful and necessary to implement the value added tax.

"(d) Effective date.- This provision shall be effective January 1, 2021.

"Sec. 1603. Voluntary Value Sharing

"(a) A business entity may elect to pay a value added tax rate higher than stated in Section 1602 (b).

"(b) The Secretary of the Treasury shall maintain:

"(1) a publicly searchable database of business entities that have made this selection, and the tax rate they have elected to pay in each taxable year.

"(2) an annual ranked list of the 200 business entities which have made the largest contributions of voluntary value sharing.

"(3) an annual ranked list of the 200 business entities with the highest voluntary value sharing tax rate pursuant to subsection (a) in the following categories:

"(A) Gross profits of less than $1,000,000.

" (B) Gross profits greater than or equal to $1,000,000.

"(4) a separate accounting within the American Value Fund of the total sums paid under this section that are in excess of the requirements of section 1602 (b), deducting any payments made as a year-end bonus pursuant to section 1398(d) of title 7, United States Code."

"SUBCHAPTER B - ACCOUNTING METHOD RULES

"SEC. 1651. General accounting rules.
"SEC. 1652. Use of the cash method of accounting.
"SEC. 1653. Taxable year.
"SEC. 1654. Long-term contracts.
"SEC. 1655. Post-sale price adjustments and refunds.
"SEC. 1656. Bad debts.
"SEC. 1657. Transition rules.

"Sec. 1651. General accounting rules.

"(a) In General.—Except as provided in section 1652, a business entity shall use an accrual method of accounting for purposes of determining the timing of recognition of taxable receipts and deduction of business purchases. All business purchases shall be deducted when incurred (in the case of a business entity using the accrual method of accounting) or when paid (in case of a business entity using the cash method of accounting) without regard to whether the business purchases are for or relate to—

"(1) inventory,

"(2) assets with a useful life of more than one year, or

"(3) property that will be used to produce other property.

"(b) Economic Performance.—For purposes of determining whether an amount has been incurred, the all events test shall not be treated as met any earlier than when economic performance with respect to such item occurs.

"(c) Consistent Accounting Methods.—Except as otherwise expressly provided in this chapter, a business entity shall secure the consent of the Secretary before changing the method of accounting by which it determines gross profits. This provision shall not apply to changes required by the adoption of the value added tax.

"Sec. 1652. Use of the cash method of accounting.

"(a) In General.—A business entity that was permitted to use and used the cash method of accounting under the Internal Revenue Code of 1986 shall be permitted to continue to use the cash method of accounting.

"(b) New Business Entities.—A new business entity shall be permitted to use the cash method of accounting if permitted to under regulations prescribed by the Secretary.

"(c) Change or Expansion of Business.—Subsection (a) shall cease to apply to a business entity that changes or expands its business such that under regulations prescribed by the Secretary it is no longer eligible to use the cash method of accounting.

"(d) Regulations.—

"(1) USE OF CASH METHOD.—The Secretary shall prescribe regulations defining which business entities may use the cash method of accounting. In general, those regulations shall be consistent with the rules under sections 447 and 448 of the

Internal Revenue Code of 1986. The regulations shall not require a business entity described in subsection (a) to convert to the accrual method prior to January 1, 2022.

"(2) CHANGE IN ACCOUNTING METHOD.—The Secretary shall prescribe regulations to prevent double counting of taxable receipts and deductible expenses in the case of a change in accounting method.

"Sec. 1653. Taxable year.

"(a) Computation of Gross Profits.—Gross profits shall be computed on the basis of a business entity's taxable year.

"(b) Taxable Year.—'Taxable year' means—

"(1) the taxpayer's annual accounting period, if it is a calendar year or a fiscal year;

"(2) the calendar year, if subsection (g) applies; or

"(3) the period for which the return is made if the return is made for a period of less than 12 months.

"(c) Annual Accounting Period.—'Annual accounting period' means the annual period on the basis of which the business entity regularly keeps its books.

"(d) Calendar Year.—'Calendar year' means a period of 12 months ending on December 31.

"(e) Fiscal Year.—'Fiscal year' means a period of 12 months ending on the last day of any month other than December. In the case of any business entity that has made the election provided by subsection (f), the term means the annual period (varying from 52 to 53 weeks) so elected.

"(f) Election of 52–53 Week Year.—

"(1) GENERAL RULE.—A business entity which, in keeping its books, regularly computes its income or profits on a basis of an annual period which varies from 52 to 53 weeks and ends always on the same day of the week and ends always—

"(A) on whatever date such same day of the week last occurs in a calendar month, or

"(B) on whatever date such same day of the week falls which is nearest to the last day of a calendar month, may elect to compute its gross profits on the basis of such annual period.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as they deems necessary for the application of this subsection, including regulations relating to the application of effective dates to taxpayers using a 52–53 week year.

"(g) Calendar Year Required.—

"(1) NO ACCOUNTING PERIOD.—A business entity's taxable year shall be the calendar year if the business entity does not have an annual accounting period or has an annual accounting period that does not qualify as a fiscal year.

"(2) NEW BUSINESS ENTITY.—The taxable year of a business entity that begins business activity after December 31, 2020, shall be the calendar year (or a 52–53 week fiscal year ending in December) unless the business entity can demonstrate a business reason for selecting an accounting period other than the calendar year.

"(h) Transition Rule for Business Entities With a Fiscal Year.—

"(1) IN GENERAL.—A business entity with a taxable year that is not the calendar year shall have a short taxable year ending on December 31, 2020, and a subsequent taxable year beginning on January 1, 2021, and ending on the day immediately preceding the beginning of the business entity's next fiscal year.

"(2) BUSINESS ENTITIES WITH 52–53 WEEK YEAR ENDING IN DECEMBER.—

"(A) IN GENERAL.—If a business entity has a 52–53 week taxable year (under the Internal Revenue Code of 1986) that ends in December 2020, it may elect to begin its first taxable year for the value added tax on the first day immediately following the last day of such taxable year.

"(B) NO ELECTION.—If a business entity that has a 52–53 week taxable year that ends in December 2010, does not make the election under subparagraph (A) or is prohibited from making such election by subparagraph (C), the business entity's taxable year under the Internal Revenue Code of 1986 that would end in December 2020 shall end on December 31, 2020.

"(C) ANTI-ABUSE RULE.—Subparagraph (A) shall not apply to any taxpayer that enters into business transactions in 2010 following the scheduled end of its fiscal year with business entities that are not subject to the business consumption tax at the time of such transactions if such transactions deviate from the normal course of business in order to achieve some tax benefit.

"Sec. 1654. Long-Term contracts.

"(a) In General.—In the case of a long-term contract—

"(1) CONTRACTOR EXPENSES.—The contractor shall be entitled to deduct its business purchases when paid or incurred.

"(2) CONTRACTOR RECEIPTS.—The contractor shall recognize taxable receipts—

"(A) in the case of a project in which the acquirer has no ownership interest in the project until delivery—

"(i) upon delivery of the project, in the case of an accrual basis contractor, or

"(ii) upon the later of delivery of the project or the receipt of payment, in the case of a cash-basis contractor.

"(B) in the case of a project in which the acquirer obtains an ownership interest as the project is constructed—

"(i) when the contractor has the right to payments, in the case of an accrual basis contractor, or

"(ii) upon the later of when the contractor receives the cash or has the right to payments, in the case of a cash basis contractor.

"(3) ACQUIRER EXPENSES.—The acquirer that is a business entity shall be entitled to deduct its costs of the business purchase—

"(A) in the case of a cash-basis acquirer, at such time as a cash basis contractor would be required to treat the amounts paid as taxable receipts, or

"(B) in the case of an accrual-basis acquirer, at such time as an accrual basis contractor would be required to treat the amounts paid or due as taxable receipts.

"(b) Right to Payments.—

"(1) IN GENERAL.—A contractor shall be treated as having a right to payments with respect to a project at any time to the extent that the contractor would not be required to return payments received (or would be entitled to collect payments not yet received) if the project were terminated at such time by the contractor.

"(2) CONTRACTUAL PROVISIONS.—If a long-term contract includes a procedure for paying the contractor as work is completed (for example, by reason of a draw

down from a trust account), the contractual provisions shall generally govern when a contractor has a right to payment.

"(3) PERCENTAGE COMPLETION METHOD OF ACCOUNTING.—If a long-term contract does not include a mechanism for paying the contractor as work is completed, the percentage-of-completion method of accounting shall be used to determine the timing of taxable receipts of the contractor and business purchases of the acquirer.

"(c) Long-Term Contract.—

"(1) IN GENERAL.—'Long-term contract' means—

"(A) any contract that covers service or production through parts of two different calendar years if the contract includes a formal deposit and draw-down mechanism, and

"(B) any contract for the manufacture, building, installation, or construction of property if such contract is not completed within the taxable year of the contractor in which such contract is entered into.

"(2) EXCEPTION.—A contract for the manufacture of property shall not be treated as a long-term contract unless such contract involves the manufacture of—

"(A) any unique item of a type which is not normally included in the finished goods inventory of the taxpayer, or

"(B) any item which normally requires more than 12 calendar months to complete.

"(d) Consistency.—The Secretary may require business entities to file statements containing such information with respect to long-term contracts as the Secretary may prescribe to ensure consistency in reporting.

"(e) Foreign Contracts.—This section shall not be construed to permit a deduction for a business purchase for the cost of property produced outside the United States pursuant to a long-term contract at any time prior to the import of such property into the United States.

"Sec. 1655. Post-Sale price adjustments and refunds.

"(a) Receipt of Price Adjustment.—In the case of a post-sale price adjustment attributable to a business purchase which was taken into account in computing gross profits for a prior taxable year, the amount of such adjustment shall be treated as a reduction or increase, as

the case may be, in the cost of business purchases for the taxable year in which the adjustment is made or incurred.

"(b) Issuance of Price Adjustment.—In the case of a post-sale price adjustment attributable to a sale the receipts from which were taken into account in determining taxable receipts for a prior taxable year, the amount of such adjustment shall be treated as a reduction or increase, as the case may be, in taxable receipts for the taxable year in which the adjustment is made or incurred.

"(c) Post-Sale Price Adjustment.—'Post-sale price adjustment' means a refund, rebate, or other price allowance attributable to a sale of property or services or an upward adjustment in price that was not previously taken into account under the business entity's method of accounting.

"Sec. 1656. Bad debts.

"(a) Seller.—If an amount owed to an accrual basis business entity for property or services sold—

"(1) was taken into account as a taxable receipt in a prior taxable year, and

"(2) becomes wholly or partially uncollectible during the taxable year, then the seller shall treat the amount as a reduction in taxable receipts for the taxable year in which it becomes wholly or partially uncollectible.

"(b) Notice Requirement.—No reduction shall be allowed under subsection (a) unless the seller notifies the purchaser of the amount which the seller has treated as wholly or partially uncollectible.

"(c) Subsequent Collection.—If an amount which was treated as uncollectible under subsection (a) is subsequently collected, it shall be treated as a taxable receipt when collected.

"(d) Purchaser.—If a purchaser receives notice under subsection (b) from a seller and the purchaser has treated the amount labeled uncollectible as a business purchase in a prior taxable year, then the purchaser shall treat such amount as a reduction in the cost of business purchases in the taxable year to which the notice relates. If the purchaser subsequently repays such amount, the repayment shall constitute the cost of a business purchase.

"Sec. 1657. Transition rules.

"(a) No Double Deductions.—A business entity shall not be entitled to treat as a ‘cost of business purchase’ any amount that the business entity deducted in computing taxable income under the income tax in effect prior the effective date of the value added tax.

"(b) No Double Inclusion.—A business entity shall not be required to include in taxable receipts any receipt that the business entity took into account in computing taxable income under the income tax in effect prior to the effect date of the value added tax.

"(c) No Loss of Deduction.—An expense which—

"(1) a business entity would have been able to deduct as a cost of a business purchase in an accounting period before the effective date of the value added tax if the value added tax had been in effect in such period, and

"(2) the business entity would have been able to deduct as an expense in computing taxable income in a period after the value added tax is effective if the income tax had continued in effect,

"shall be treated as a cost of a business purchase incurred or paid at the time that it would have been paid or incurred under the income tax if the income tax had continued in effect. This subsection shall not apply to any amount which is to be taken into account under subchapter L (relating to transition rules), any amounts which would have been deducted under the income tax through loss carryover deductions, or any deductions deferred by the uniform capitalization rules under section 263A of the Internal Revenue Code of 1986.

"(d) All Taxable Receipts Taxed.—A receipt which—

"(1) a business entity would have been required to treat as a taxable receipt in an accounting period before the effective date of the value added tax if the business consumption tax had been in effect in such period, and

"(2) the business entity would have been required to include in gross income in a period after the value added tax is effective if the income tax had continued in effect,

"shall be treated as a taxable receipt at the time that it would have been included in income if the income tax had continued in effect.

"SUBCHAPTER C - IMPORT TAX
"SEC. 1661. Imposition of tax on property.

"SEC. 1662. Imposition of tax on import of services.
"SEC. 1663. General rules for the import tax.

"Sec. 1661. Imposition of tax on property.

"(a) General Rule.—There is hereby imposed a tax equal to 15 percent of the customs value of all property entered into the United States for consumption, use or warehousing.

"(b) Liability for Tax.—The tax imposed on the import of property by subsection (a) shall be paid by the person entering the property into the United States for consumption, use or warehousing. Such tax shall be due and payable at the time of import.

"(c) Imports of Previously Exported Property.—In the case of any article that is classified under a heading or subheading of subchapter I or II of chapter 98 of the Tariff Schedules of the United States, the tax under this section shall be imposed only on that portion of the customs value of such article that is dutiable under such heading or heading.

"(d) Imports for Personal Consumption.—The import tax imposed by this section shall not apply to any article entered into the United States duty free under subchapters I through VII of chapter 98 of the Tariff Schedules of the United States for personal consumption.

"(e) Exception for Certain Commodities and Products.—The import tax imposed by this section shall not apply to petroleum, petroleum products or such commodities or products as the President shall by Executive Order determine to be in short supply and vital to national security.

"Sec. 1662. Imposition of tax on import of services.

"(a) General Rule.—There is hereby imposed a tax equal to 15 percent of the cost of all services treated as imported into the United States during the taxable year of the service recipient.

"(b) Liability for the Tax.—The tax on the import of services imposed by subsection (a) shall be paid by the person who receives the imported services. The tax shall be payable as if it were an addition to the business consumption tax imposed by section 1602.

"(c) Imported Services.—

"(1) In General.—Except as otherwise provided in this subsection, services shall not be treated as imported or exported from the location in which they are performed.

"(2) Import of Services.—A business entity shall be treated as importing a service if—

"(i) the entire benefit of the service will be realized in the United States, and

"(ii) the benefit will be realized in connection with the United States business activities of the business entity.

"(3) Export of Services.—A business will be treated as exporting a service if—

"(i) the entire benefit of the service will be realized outside of the United States, and

"(ii) the benefit will be realized solely in connection with the activities of the purchaser occurring outside the United States.

"(4) Services Acquired From Service Provider That Provides Services In and Outside the United States.—

"(i) In general.—If a business entity acquires services from a service provider that provides services both in and outside the United States and the service provider shows on the invoice where the services are provided—

"(I) the business entity shall treat the services as provided where stated on the invoice, and

"(II) the service provider shall treat as taxable receipts any services listed as provided in the United States.

"(ii) No invoice.—If a business entity acquires services from a service provider that provides services both in and outside the United States and the service provider does not show on an invoice where such services are provided—

"(I) the business entity shall treat the services as if provided in the location to which payment is sent, and

"(II) the service provider shall treat as taxable receipts any payments received in the United States.

"(iii) Communication services shall be treated as provided at the point of origin of the communications and shall not be treated as imported or exported.

"(iv) The Secretary shall prescribe regulations to the extent that insurance services and banking services are to be treated as imported or exported.

"Sec. 1663. General rules for the import tax.

"'Import tax' means the tax imposed by section 1661 on the import of property and the tax imposed by section 1662 on the import of services."

SEC. 153. MINTING OF PLATINUM COINS.

(a) DIRECTIVE TO MINT AND ISSUE PLATINUM COINS.—

(1) No later than 30 days from the date of enactment of this Act, the Secretary of the Treasury shall, under section 5112(k) of title 31, United States Code, mint and issue two $1 trillion platinum coins bearing the profile of the President whose signature is on this Act.

(2) For fiscal years 2021, 2022, 2023, and 2024, an additional two $1 trillion platinum coins shall be minted.

(3) The Secretary shall direct the United States Mint to sweep all funds received from the sale of the coins under this subsection into the Fund.

(b) Preserving Federal Reserve independence and efficacy of monetary policy.—To ensure the efficacy of the Federal Reserve System in achieving its statutory obligations, including implementation of its monetary policy objectives, the Board of Governors of the Federal Reserve shall be authorized:

(1) SUPPLEMENTAL FINANCING SECURITIES.—To issue as Federal reserve notes under section 248(d) of title 12, United States Code, digital securities, including bills, notes, and bonds, of whatever maturity, denomination, and yield, as is deemed appropriate and necessary by the Board of Governors to achieve its statutory objectives under the Federal Reserve Act, in quantities up to an amount equivalent to the total face value of all platinum coins issued by the United States Treasury and held as assets by the Federal Reserve System. Notes issued under this paragraph shall be sold on the open market in a manner similar to the sale of Treasury securities, and, like Federal reserve notes, shall be considered direct obligations of the United States under section 8 of title 18, United States Code, but shall be recorded for accounting purposes as direct liabilities of the Federal Reserve System, and accordingly shall not be included in calculations of public debt subject to limit under section 3101 of title 31, United States Code.

(2) ESTABLISH A DEDICATED SPECIAL TREASURY MONETARY FINANCING ACCOUNT.—The Federal Reserve Bank of New York shall establish an account titled the "Special Treasury Monetary Financing Account", in which shall be recorded any expenses associated with payment of interest on settlement balances or Federal reserve securities up to a total principal amount equivalent to the total principal value of all platinum coins issued by the United States Treasury and held as assets by the Federal Reserve System, plus any additional liabilities incurred as a result of prior interest payments made on liabilities issued against coin assets purchased under the

Program. Any ongoing losses incurred by this account shall be recorded as a negative liability, and shall be maintained separately from the rest of the balance sheet of both the Federal Reserve Bank of New York and the Federal Reserve System, so as not to reduce or impact the calculation of total income or revenue generated by the Federal Reserve System, or otherwise reduce the total amount of net operating profits to be made available for remittance to the Treasury on an ongoing basis.

(c) Section 225a of title 12, United States Code, is amended by striking "maximum employment," and inserting "minimal poverty".

(d) Regulations.—The Secretary and the Board of Governors of the Federal Reserve System shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section.

SEC. 154. CARBON FEE AND DIVIDEND.

(a) In general.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"SUBTITLE L—CARBON DIVIDENDS AND CARBON FEE

"CHAPTER 101. CARBON FEES.

"CHAPTER 102. CARBON BORDER FEE ADJUSTMENT.

"CHAPTER 101—CARBON FEES

"Sec. 9901. Definitions.

"For purposes of this subtitle:

"(a) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

"(b) CARBON DIOXIDE EQUIVALENT OR CO_2-e.—The term ‘carbon dioxide equivalent’ or ‘CO_2-e’ means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas.

"(c) CARBON-INTENSIVE PRODUCT.—The term ‘carbon-intensive product’ means, as identified by the Secretary by rule—

"(1) any manufactured or agricultural product which the Secretary in consultation with the Administrator determines is emissions-intensive and trade-exposed, except that no covered fuel is a carbon-intensive product, and

"(2) until such time that the Secretary promulgates rules identifying carbon-intensive products, the following shall be considered carbon-intensive products: iron, steel, steel mill products (including pipe and tube), aluminum, cement, glass (including flat, container, and specialty glass and fiberglass), pulp, paper, chemicals, or industrial ceramics.

"(d) CARBON LEAKAGE.—The term ‘carbon leakage’ means an increase of global greenhouse gas emissions which are substantially due to the relocation of greenhouse gas sources from the United States to jurisdictions which lack comparable controls upon greenhouse gas emissions.

"(e) COST OF CARBON OR CARBON COSTS.—The term ‘cost of carbon’ or ‘carbon costs’ means a national or sub-national government policy which explicitly places a price on greenhouse gas pollution and shall be limited to either a tax on greenhouse gases or a system of cap-and-trade. The cost of carbon is expressed as the price per metric ton of CO_2-e.

"(f) COVERED ENTITY.—The term ‘covered entity’ means—

"(1) in the case of crude oil—

"(A) a refinery operating in the United States, and

"(B) any importer of any petroleum or petroleum product into the United States,

"(2) in the case of coal—

"(A) any coal mining operation in the United States, and

"(B) any importer of coal into the United States,

"(3) in the case of natural gas—

"(A) any entity entering pipeline quality natural gas into the natural gas transmission system, and

"(B) any importer of natural gas into the United States,

"(4) in the case of fluorinated gases any entity required to report the emission of a fluorinated gas under part 98 of title 40, Code of Federal Regulations, and

"(5) any entity or class of entities which, as determined by the Secretary, is transporting, selling, or otherwise using a covered fuel in a manner which emits a greenhouse gas to the atmosphere and which has not been covered by the carbon fee, the fluorinated greenhouse gas fee, or the carbon border fee adjustment.

"(g) COVERED FUEL.—The term ‘covered fuel’ means crude oil, natural gas, coal, or any other product derived from crude oil, natural gas, or coal which shall be used so as to emit greenhouse gases to the atmosphere.

"(h) CRUDE OIL.—The term ‘crude oil’ means unrefined petroleum.

"(i) EXPORT.—The term ‘export’ means to transport a product from within the jurisdiction of the United States to persons outside the United States.

"(j) FLUORINATED GREENHOUSE GAS.—The term ‘fluorinated greenhouse gas’ means sulfur hexafluoride (SF_6), nitrogen trifluoride (NF_3), and any fluorocarbon except for controlled substances as defined in subpart A of part 82 of title 40, Code of Federal Regulation, and substances with vapor pressures of less than 1 mm of Hg absolute at 25 degrees. With these exceptions, ‘fluorinated greenhouse gas’ includes but is not limited to any hydrofluorocarbon, any perfluorocarbon, any fully fluorinated linear, branched or cyclic alkane, ether, tertiary amine or aminoether, any perfluoropolyether, and any hydrofluoropolyether.

"(k) FOSSIL FUEL.—The term ‘fossil fuel’ means coal, coal products, petroleum, petroleum products, or natural gas.

"(l) FULL FUEL CYCLE GREENHOUSE GAS EMISSIONS.—The term ‘full fuel cycle greenhouse gas emissions’ means the greenhouse gas content of a covered fuel plus that covered fuel’s upstream greenhouse gas emissions.

"(m) GLOBAL WARMING POTENTIAL.—The term ‘global warming potential’ means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of carbon dioxide.

"(n) GREENHOUSE GAS.—The term ‘greenhouse gas’ means carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), sulfur hexafluoride (SF_6), hydrofluorocarbons (HFCs), perfluorocarbon (PFCs), and other gases as defined by rule of the Administrator.

"(o) GREENHOUSE GAS CONTENT.—The term ‘greenhouse gas content’ means the amount of greenhouse gases, expressed in metric tons of CO_2-e, which would be emitted to the atmosphere by the use of a covered fuel and shall include, nonexclusively, emissions of carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), and other greenhouse gases as identified by rule of the Administrator.

"(p) GREENHOUSE GAS EFFECT.—The term ‘greenhouse gas effect’ means the adverse effects of greenhouse gases on health or welfare caused by the greenhouse gas’s heat-trapping potential or its effect on ocean acidification.

"(q) IMPORT.—Irrespective of any other definition in law or treaty, the term ‘import’ means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States.

"(r) PETROLEUM.—The term ‘petroleum’ means oil removed from the earth or the oil derived from tar sands or shale.

"(s) PRODUCTION GREENHOUSE GAS EMISSIONS.—The term ‘production greenhouse gas emissions’ means the quantity of greenhouse gases, expressed in metric tons of CO_2-e, emitted to the atmosphere resulting from, nonexclusively, the production, manufacture, assembly, transportation, or financing of a product.

"(t) SECRETARY - The term ‘Secretary’ means the Secretary of the Treasury.

"(u) UPSTREAM GREENHOUSE GAS EMISSIONS.—The term ‘upstream greenhouse gas emissions’ means the quantity of greenhouse gases, expressed in metric tons of CO_2-e, emitted to the atmosphere resulting from, nonexclusively, the extraction, processing, transportation, financing, or other preparation of a covered fuel for use.

"Sec. 9902. Carbon fee.

"(a) Carbon fee.—There is hereby imposed a carbon fee on any covered entity’s emitting use, or sale or transfer for an emitting use, of any covered fuel.

"(b) Amount of the carbon fee.—The carbon fee imposed by this section is an amount equal to—

"(1) the greenhouse gas content of the covered fuel, multiplied by

"(2) the carbon fee rate.

"(c) Carbon fee rate.—For purposes of this section—

"(1) IN GENERAL.—The carbon fee rate, with respect to any use, sale, or transfer during a calendar year, shall be—

"(A) in the case of calendar year 2021, $15, and

"(B) except as provided in paragraph (2), in the case of any calendar year thereafter—

"(i) the carbon fee rate in effect under this subsection for the preceding calendar year, plus

"(ii) $10.

"(2) EXCEPTIONS.—

"(A) INCREASED CARBON FEE RATE AFTER MISSED ANNUAL EMISSIONS REDUCTION TARGET.—In the case of any year immediately following a year for which the Secretary determines under 9903(b) that the actual emissions of greenhouse gases from covered fuels exceeded the emissions reduction target for the previous year, paragraph (1)(B)(ii) shall be applied by substituting '$15' for the dollar amount otherwise in effect for the calendar year under such paragraph.

"(B) CESSATION OF CARBON FEE RATE INCREASE AFTER CERTAIN EMISSION REDUCTIONS ACHIEVED.—In the case of any year immediately following a year for which the Secretary determines under 9903(b) that actual emissions of greenhouse gases from covered fuels is not more than 10 percent of the greenhouse gas emissions from covered fuels during the year 2018, paragraph (1)(B)(ii) shall be applied by substituting '$0' for the dollar amount otherwise in effect for the calendar year under such paragraph.

"(d) Exemption and refund.—The Secretary shall prescribe such rules as are necessary to ensure the fee imposed by this section is not imposed with respect to any nonemitting use, or any sale or transfer for a nonemitting use, including rules providing for the refund of any carbon fee paid under this section with respect to any such use, sale, or transfer.

"Sec. 9903. Emissions reduction schedule.

"(a) In general.—An emissions reduction schedule for greenhouse gas emissions from covered fuels is hereby established, as follows:

"(1) REFERENCE YEAR.—The greenhouse gas emissions from covered fuels during the year 2018 shall be the reference amount of emissions and shall be determined from the 'Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2018' published by the Environmental Protection Agency in April of 2020.

"(2) EMISSIONS REDUCTION TARGET.—The first emission reduction target shall be for the year 2023. The emission target for each year thereafter shall be the previous year's target emissions minus a percentage of emissions during the reference year determined in accordance with the following table:

"Year	Emissions Reduction Target
2018	Reference year
2021 to 2022	No emissions reduction target
2023 to 2034	5 percent of 2018 emissions per year
2035 to 2050	2.5 percent of 2018 emissions per year

"(b) Administrative determination.—Not later than 60 days after the beginning of each calendar year beginning after the enactment of this section, the Secretary, in consultation with the Administrator, shall determine whether actual emissions of greenhouse gases from covered fuels exceeded the emissions reduction target for the preceding calendar year. The Secretary shall make such determination using the same greenhouse gas accounting method as was used to determine the greenhouse gas emissions in the 'Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2018' published by the Environmental Protection Agency in April of 2020.

"Sec. 9904. Fee on fluorinated greenhouse gases.

"(a) Fluorinated gas fee.—A fee is hereby imposed upon any fluorinated greenhouse gas which is required to be reported under part 98 of title 40, Code of Federal Regulations.

"(b) Amount.—The fee to be paid by the covered entity required to so report shall be an amount equal to—

"(1) the total amount, in metric tons of CO_2-e, of emitted fluorinated greenhouse gases (or, in the case of a supplier, emissions that would result determined under the rules of such part), multiplied by

"(2) an amount equal to 10 percent of the carbon fee rate in effect under section 9902(c)(1) for the calendar year of such emission.

"Sec. 9905. Decommissioning of carbon fee.

"(a) In general.—At such time that the Secretary determines under 9903(b) that actual emissions of greenhouse gases from covered fuels is not more than 10 percent of the greenhouse gas emissions from covered fuels during the year 2018, the Secretary shall decommission in an orderly manner all bureaus and programs associated with administering the carbon fee, and the carbon border fee adjustment.

"Sec. 9906. Carbon Capture and Sequestration.

"(a) In general.—The Secretary, in consultation with the Administrator and the Secretary of Energy, shall prescribe regulations for making payments as provided in subsection (b) to qualified facilities which capture and sequester qualified carbon dioxide.

"(b) Payment amounts.—

"(1) IN GENERAL.—The Secretary shall make payments to a qualified facility in the same manner as if such payment was a refund of an overpayment of the carbon fee imposed by section 9902, in cases in which such qualified facility—

"(A) uses any covered fuel—

"(i) with respect to which the carbon fee has been paid, and

"(ii) which results in the emission of qualified carbon dioxide,

"(B) captures such emitted qualified carbon dioxide, and

"(C) (i) sequesters such qualified carbon dioxide in a manner which is safe, permanent, and in compliance with any applicable local, State, and Federal laws, or

"(ii) utilizes such qualified carbon dioxide in a manner provided in paragraph (3)(C).

"(2) AMOUNT OF REFUND.—The payment determined under this section shall be an amount equal to the lesser of—

"(A) the adjusted metric tons of qualified carbon dioxide captured and sequestered or utilized, multiplied by the carbon fee rate during the year in which the carbon fee was imposed by section 9902 upon the covered fuel to which such carbon dioxide relates, or

"(B) the amount of the carbon fee imposed by section 9902 with respect to such covered fuel.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(A) QUALIFIED CARBON DIOXIDE; QUALIFIED FACILITY.—

"(i) QUALIFIED CARBON DIOXIDE.—The term ‘qualified carbon dioxide’ has the same meaning given such term under section 45Q(b).

"(ii) QUALIFIED FACILITY.—The term ‘qualified facility’ means any industrial facility at which carbon capture equipment is placed in service.

"(B) ADJUSTED TOTAL METRIC TONS.—The adjusted total metric tons of qualified carbon dioxide captured and sequestered or utilized shall be the total metric tons of qualified carbon dioxide captured and sequestered or utilized, reduced by the amount of any carbon dioxide likely to escape and be emitted into the atmosphere due to imperfect storage technology or otherwise, as determined by the Secretary in consultation with the Administrator.

"(C) UTILIZATION.—The Secretary, in consultation with the Administrator, shall establish regulations providing for the methods and processes by which qualified carbon dioxide may be utilized so as to remove that qualified dioxide safely and permanently from the atmosphere. Utilization may include the production of substances such as but not limited to plastics and chemicals. Such regulations shall minimize the escape or further emission of the qualified carbon dioxide into the atmosphere.

"(D) SEQUESTRATION.—Not later 540 days after the date of the enactment of this section, the Secretary, in consultation with the Administrator, shall prescribe regulations identifying the conditions under which carbon dioxide may be safely and permanently sequestered.

"(4) COORDINATION WITH CREDIT FOR CARBON DIOXIDE SEQUESTRATION.—At such time that the Secretary prescribes regulations

implementing this section, no payment under this section shall be allowed to a taxpayer to whom a credit has been allowed for any taxable year under section 45Q.

"SEC. 9907. Administrative authority.

"(a) In general.—The Secretary in consultation with the Administrator shall prescribe such regulations, and other guidance, as may be necessary to carry out the purposes of this subtitle and assess and collect the carbon fee imposed by section 9902 and the fluorinated greenhouse gas fee imposed by section 9904.

"(b) Specifically.—Such regulations and guidance shall include—

"(1) the identification of an effective point in the production, distribution, or use of a covered fuel or fluorinated greenhouse gas for collecting such carbon fee or fluorinated greenhouse gas fee, in such a manner so as to minimize administrative burden and maximize the extent to which full fuel cycle greenhouse gas emissions from covered fuels or fluorinated greenhouse gases have the carbon fee or fluorinated greenhouse gas fee levied upon them,

"(2) the identification of covered entities which shall be liable for the payment of the carbon fee or the fluorinated greenhouse gas fee,

"(3) requirements for the monthly payment of such fees,

"(4) as may be necessary or convenient, rules for distinguishing between different types of covered fuels,

"(5) as may be necessary or convenient, rules for distinguishing between a covered fuel's greenhouse gas content and its upstream greenhouse gas emissions,

"(6) rules to ensure that no covered fuel or fluorinated greenhouse gas has the carbon fee, fluorinated greenhouse gas fee, or carbon border fee adjustment imposed upon it more than once, and

"(7) rules to ensure that the domestic implementation of the carbon fee and the fluorinated greenhouse gas fee coordinate with the implementation of the carbon border fee adjustment of chapter 102.

"CHAPTER 102—CARBON BORDER FEE ADJUSTMENT

"Sec. 9908. Carbon border fee adjustment.

"(a) In general.—The fees imposed by, and refunds allowed under, this section shall be referred to as ‘the carbon border fee adjustment’.

"(b) Purpose.—The purpose of the carbon border fee adjustment is to protect animal, plant, and human life and health, to conserve exhaustible natural resources by preventing carbon leakage, and to facilitate the creation of international agreements.

"(c) Imported covered fuels fee.—In the case of any person that imports into the United States any covered fuel, there shall be imposed a fee equal to the excess (if any) of—

"(1) an amount equal to—

"(A) the amount of full fuel cycle greenhouse gas emissions of such fuel, multiplied by

"(B) the carbon fee rate in effect for the year in which such fuel is imported, over

"(2) the total foreign cost of carbon carried by such fuel.

"(d) Imported carbon-Intensive products fee.—In the case of any person that imports into the United States any carbon-intensive products, there shall be imposed a fee equal to the excess (if any) of—

"(1) an amount equal to—

"(A) production greenhouse gas emissions of such product, multiplied by

"(B) the carbon fee rate in effect for the year in which the production greenhouse gas emissions of such product were emitted into the atmosphere, over

"(2) the total foreign cost of carbon carried by such product.

"(e) Refund on exports from United States.—

"(1) CARBON-INTENSIVE PRODUCTS.—Under regulations prescribed by the Secretary, there shall be allowed a credit or refund (without interest) to exporters of carbon-intensive products manufactured or produced in the United States an amount equal to the excess (if any) of—

"(A) an amount equal to—

"(i) the production greenhouse gas emissions of the exported carbon-intensive product, multiplied by

"(ii) the carbon fee rate during the year in which the carbon fee or fluorinated greenhouse gas fee was paid upon the production greenhouse gas emissions of the exported carbon-intensive product, over

"(B) any total cost of carbon to be levied upon the carbon-intensive product by any jurisdiction to which the carbon-intensive product is to be imported.

"Any such credit or refund shall be allowed in the same manner as if it were an overpayment of the fee imposed by section 9902 or 9904. The Secretary shall establish fair, timely, impartial, and as necessary confidential procedures by which any exporter of any product from the United States may petition the Secretary to include that exported product on the list of carbon-intensive products.

"(2) COVERED FUELS.—Under regulations prescribed by the Secretary, in the case of a covered fuel produced in the United States with respect to which the fee under section 9902 was paid, there shall be allowed as a credit or refund (without interest) to any exporter of such covered fuels an amount equal to the excess (if any) of—

"(A) an amount equal to—

"(i) the full fuel cycle greenhouse gas emissions of the covered fuel, multiplied by

"(ii) the carbon fee rate at the time the carbon fee was paid upon the full fuel cycle greenhouse gas emissions of the exported covered fuel, over

"(B) any total cost of carbon to be levied upon the covered fuel by a jurisdiction to which the carbon-intensive product is to be imported.

Any such credit or refund shall be allowed in the same manner as if it were an overpayment of tax imposed by section 9902.

"(f) Definitions.—For purposes of this section—

"(1) FOREIGN COST OF CARBON; FOREIGN CARBON COSTS.—The term ‘foreign cost of carbon’ or ‘foreign carbon cost’ means the cost of any laws of a foreign jurisdiction which impose a system of cap-and-trade with respect to, or a tax or fee on, greenhouse gas. Such cost shall be determined and expressed as a price per metric ton of CO_2-e.

"(2) TOTAL COST OF CARBON CARRIED.—The term ‘total cost of carbon carried’ means an amount equal to—

"(A) the production greenhouse gas emissions of a carbon-intensive product or the full fuel cycle greenhouse gas emissions of a covered fuel, multiplied by

"(B) the cost of carbon with respect to such product or fuel, reduced by any amount refunded with respect to such product or fuel by a foreign jurisdiction.

The total cost of carbon carried shall be expressed as price in United States dollars.

"(3) TOTAL FOREIGN COST OF CARBON CARRIED.—The term ‘total foreign cost of carbon carried’ means an amount equal to—

"(A) the production greenhouse gas emissions of a carbon-intensive product, or the full fuel cycle greenhouse gas emissions of a covered fuel, multiplied by

"(B) the foreign cost of carbon with respect to such product or fuel, reduced by the amount refunded with respect to such product or fuel by a foreign jurisdiction.

The total foreign cost of carbon carried shall be expressed as price in United States dollars.

"Sec. 9909. Administration of the carbon border fee adjustment.

"(a) Generally.—The Secretary in consultation with the Administrator shall prescribe regulations and guidance which implement the carbon border fee adjustment under section 9908.

"(b) Collaboration.—In determining the production greenhouse gas emissions of an imported carbon-intensive product, the upstream greenhouse gas emissions of an imported covered fuel, the full fuel cycle greenhouse gas emissions of an imported covered fuel, or the foreign cost of carbon, or otherwise administering the carbon border fee adjustment, it is the sense of Congress that the Secretary should collaborate with authorized officers of any jurisdiction, including sub-national governments, affected by the carbon border fee adjustment.

"(c) Methodology.—In determining the production greenhouse gas emissions of an imported carbon-intensive product, the upstream greenhouse gas emissions of an imported covered fuel, the full fuel cycle greenhouse gas emissions of an imported covered fuel, or the foreign cost of carbon, the Secretary shall use reliable methodologies, which—

"(1) as may be necessary or convenient—

"(A) distinguish between different types of covered fuels,

"(B) distinguish between a covered fuel's greenhouse gas content and that covered fuel's upstream greenhouse gas emissions,

"(C) distinguish between the different types of greenhouse gas emissions which compose a covered fuel's upstream greenhouse gas emissions or greenhouse gas content, as well as the various processes which produced those emissions, and

"(D) distinguish between the different types of greenhouse gas emissions which compose a carbon-intensive product's production greenhouse gas emissions, as well as the various processes which produced those emissions,

"(2) ensure that no covered fuel, covered fluorinated greenhouse gas, or carbon-intensive product has the carbon fee, the fluorinated greenhouse gas fee, or the border fee adjustment imposed upon it more than once,

"(3) ensure that the implementation of the border carbon adjustment aligns with the carbon fee and the fluorinated gas fee,

"(4) in the case of incomplete data, rely upon the best available methodologies for interpolating data gaps, and

"(5) are consistent with international treaties and agreements.

"(d) Schedule.—The Secretary shall determine—

"(1) not later than 3 years after the date of the enactment of this section, the production greenhouse gas emissions of imported carbon-intensive products,

"(2) not later than 180 days after the date of the enactment of this section, the full fuel cycle greenhouse gas emissions and the upstream greenhouse gas emissions of every imported covered fuel, and

"(3) not later than 3 years after the date of the enactment of this section, the foreign cost of carbon in all jurisdictions.

"(e) Procedure.—The Secretary shall establish fair, timely, impartial, and as necessary confidential procedures by which the importer of any carbon-intensive product or any covered fuel may petition the Secretary to revise the Secretary's determination of the production greenhouse gas emissions, full fuel cycle greenhouse gas emissions, or upstream greenhouse gas emissions of that importer's imported covered fuel or imported

carbon-intensive product, or the foreign cost of carbon carried by that importer's imported carbon-intensive product.

"(f) Shipments from the United States to the territories of the United States.—Notwithstanding any other treaty, law, or policy, shipments of covered fuels or carbon-intensive products from the United States to Guam, the United States Virgin Islands, Samoa, Puerto Rico, and the Northern Mariana Islands shall be eligible for a refund of the carbon fee under section 9908(e).

"(g) Imports to the territories of the United States.—Notwithstanding any other treaty, law, or policy, imports of covered fuels or carbon-intensive products to Guam, the United States Virgin Islands, Samoa, Puerto Rico, and the Northern Mariana Islands shall not be subject to Section 9908(c) or 9908(d)."

"Sec. 9910. Allocation of carbon border fee adjustment revenues.

"(a) The revenues collected under this chapter may be used to supplement appropriations made available in fiscal years 2022 and thereafter—

"(1) to U.S. Customs and Border Protection, in such amounts as are necessary to administer the carbon border fee adjustment, then

"(2) to the Department of Treasury, in such amounts as are necessary to allow refunds under section 9908(e) to exporters of carbon-intensive products and exporters of covered fuels.".

(b) Coordination with carbon oxide sequestration credit.—Section 45Q(f) is amended by adding at the end the following new paragraph:

"(8) COORDINATION WITH CARBON CAPTURE AND SEQUESTRATION PAYMENTS.—No credit shall be allowed under this section to a taxpayer which has received any payment under section 9906.".

(c) Treaties and international negotiations.—

(A) CONFORMANCE WITH INTERNATIONAL TREATIES.—In the case that the Appellate Body of the World Trade Organization, or any other authoritative international treaty interpreter, shall find any portion of the carbon border fee adjustment under chapter 102 of the Internal Revenue Code of 1986 to violate any treaty to which the United States is a party, the Secretary of the Treasury is authorized to alter any aspect of such carbon border fee adjustment so as to bring the carbon border fee adjustment into conformance with international law.

(B) INTERNATIONAL NEGOTIATIONS.—The Congress finds the international mitigation of greenhouse gas emissions to be of national importance. Therefore, the Congress encourages the Secretary of State, or the Secretary's designee, to commence and complete negotiations with other nations with the goal of forming treaties, environmental agreements, accords, partnerships or any other instrument that effectively reduces global greenhouse gas emissions to 10 percent of 2018 levels by 2050 and which respect the principle of common but differentiated responsibilities and respective capabilities.

(C) SUSPENSION OF THE CARBON BORDER FEE ADJUSTMENT.—Any part of the carbon border fee adjustment shall be suspended, in whole or in part,—

(i) by treaty or other international agreement which includes provisions for the suspension of the carbon border fee adjustment, in whole or in part, with any party signatory to the treaty or other international agreement, or

(ii) by a finding of the Secretary that a jurisdiction of importation has implemented policies which, in the case of high emitting countries, reduce greenhouse gas emissions at a rate at least equivalent to United States greenhouse gas emission reductions, or, in the case of low emitting countries, prevent the increase in greenhouse gas emissions.

Any such finding shall be reviewed at least every 3 years and amended or revoked as required.

(d) Amendments to the Clean Air Act.

(A) In general.—Title III of the Clean Air Act (42 U.S.C. 7601) is amended by adding at the end the following:

"SEC. 330. Suspension of regulation of fuels and emissions based on greenhouse gas effects.

"(a) Fuels.—Unless specifically authorized in section 202, 211, 213, or 231 or this section, if a carbon fee is imposed by section 9902 or 9908 of the Internal Revenue Code of 1986 with respect to a covered fuel, the Administrator shall not enforce any rule limiting the emission of greenhouse gases from the combustion of that fuel under this Act (or impose any requirement on any State to limit such emission) on the basis of the emission's greenhouse gas effects.

"(b) Emissions.—Unless specifically authorized in section 202, 211, 213, or 231 or this section, if a fee is imposed by section 9904 of the Internal Revenue Code of 1986 with respect to a fluorinated greenhouse gas, the Administrator shall not enforce any rule

limiting such gas under this Act (or impose any requirement on any State to limit such gas) on the basis of the greenhouse gas effects of such gas.

"(c) Authorized regulation.—Notwithstanding subsections (a) and (b), nothing in this section limits the Administrator's authority pursuant to any other provision of this Act—

"(1) to limit the emission of any greenhouse gas because of any adverse impact on health or welfare other than its greenhouse gas effects;

"(2) in limiting emissions as described in paragraph (1), to consider the collateral benefits of limiting the emissions because of greenhouse gas effects;

"(3) to limit the emission of black carbon or any other pollutant that is not a greenhouse gas that the Administrator determines by rule has heat-trapping properties; or

"(4) to take any action with respect to any greenhouse gas other than limiting its emission, including—

"(A) monitoring, reporting, and record-keeping requirements;

"(B) conducting or supporting investigations; and

"(C) information collection.

"(d) Exception for certain greenhouse gas emissions.—Notwithstanding subsections (a) and (b), nothing in this section limits the Administrator's authority to regulate greenhouse gas emissions from—

"(1) sources that—

"(A) are subject to subpart OOOO or OOOOa of part 60 of title 40, Code of Federal Regulations, as in effect or January 1, 2020; or

"(B) would be subject to such subpart OOOO or subpart OOOOa if such subpart applied regardless of the date on which construction, modification, or reconstruction of the source involved commenced; or

"(2) POTW Treatment Plants (as defined in section 403.3(r) of title 40, Code of Federal Regulations).

"(e) Suspension expiration.—

"(1) DETERMINATION.—The Administrator shall make a determination by March 30, 2030, and no less than once every five years thereafter, based on the determination

required by section 9903(b) of the Internal Revenue Code of 1986, as to whether cumulative greenhouse gas emissions from covered fuels subject to taxation under section 9902 of such Code during the period from calendar year 2022 through the calendar year preceding the determination exceed the cumulative emissions for that period that would have occurred if the emission reduction targets in section 9903(a)(2) of such Code were met.

"(2) CONSEQUENCE OF CUMULATIVE EMISSIONS EXCEEDANCE.—If the Administrator determines under paragraph (1) that cumulative greenhouse gas emissions from covered fuels subject to tax under section 9902 of the Internal Revenue Code of 1986 exceed the cumulative emissions for the period covered by the determination that would have occurred if the emission reduction targets in section 9903(a)(2) of such Code were met, then the prohibitions in subsection (a) of this section, and in section 211(c)(5) of this Act, shall cease to apply.

"(f) Assuring environmental integrity.—

"(1) AUTHORITY.—If the Administrator determines pursuant to subsection (e)(1) of this section that the emission reduction targets in section 9903 (a)(2) of the Internal Revenue Code of 1986 are not met—

"(A) subsections (a) and (b) shall cease to apply; and

"(B) the Administrator shall—

"(i) issue such regulations as the Administrator deems necessary to bring greenhouse gas emissions from covered fuels subject to taxation under section 9902 of the Internal Revenue Code of 1986 to levels that are at or below the emission reductions targets in section 9903(a)(2) of such Code; and

"(ii) require in such regulations that additional reductions in greenhouse gas emissions are achieved to fully compensate for any amount by which greenhouse gas emissions from covered fuels subject to taxation under section 9902 of such Code have exceeded the targets in section 9903(a)(2) of such Code.

"(2) DEADLINE FOR FINALIZING REGULATIONS.—The Administrator shall finalize any regulations required by paragraph (1) not later than two years after the Administrator makes the relevant determination pursuant to such paragraph.

"(3) ACHIEVEMENT OF ADDITIONAL REDUCTIONS.—Regulations issued pursuant to paragraph (1) shall ensure that any additional reductions required by paragraph (1)(B)(ii) are fully achieved by no later than eight years after the

Administrator makes the determination pursuant to subsection (e)(1) described in paragraph (1).

"(g) Definitions.—In this section, the terms ‘greenhouse gas’ and ‘greenhouse gas effects’ have the meanings given to those terms in section 9901 of the Internal Revenue Code of 1986.".

(e) New motor vehicles and new motor vehicle engines.—Section 202(b) of the Clean Air Act (42 U.S.C. 7521(b)) is amended—

(1) by redesignating the second paragraph (3) (as redesignated by section 230(4)(C) of Public Law 101–549 (104 Stat. 2529)) as paragraph (4); and

(2) by adding at the end the following:

"(5) Notwithstanding subsections (a) and (b) of section 330, the Administrator may—

"(A) limit the emission of any greenhouse gas (as defined in section 9901 of the Internal Revenue Code of 1986) on the basis of the emission’s greenhouse gas effects (as defined in section 9901 of the Internal Revenue Code of 1986) from any class or classes of new motor vehicles or new motor vehicle engines subject to regulation under subsection (a)(1); and

"(B) grant a waiver under section 209(b)(1) for standards for the control of greenhouse gas emissions.".

(f) Fuels.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following new paragraph:

"(5) The Administrator shall not, pursuant to this subsection, impose on any manufacturer or processor of fuel any requirement for the purpose of reducing the emission of any greenhouse gas (as defined in section 9901 of the Internal Revenue Code of 1986) produced by combustion of the fuel on the basis of the emission’s greenhouse gas effects (as defined in section 9901 of the Internal Revenue Code of 1986).".

(g) Nonroad engines and vehicles emissions standards.—Section 213 of the Clean Air Act (42 U.S.C. 7547) is amended by adding at the end the following:

"(e) Greenhouse gas emissions.—Notwithstanding section 330(a), the Administrator may limit the emission of any greenhouse gas (as defined in section 9901 of the Internal Revenue Code of 1986) on the basis of the emission’s greenhouse gas effects (as defined in section 9901 of the Internal Revenue Code of 1986) from any nonroad engines and nonroad vehicles subject to regulation under this section.".

(h) Aircraft emission standards.—Section 231 of the Clean Air Act (42 U.S.C. 7571) is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsections (a) and (b) of section 330, the Administrator may limit the emission of any greenhouse gas (as defined in section 9901 of the Internal Revenue Code of 1986) on the basis of the emission's greenhouse gas effects (as defined in section 9901 of the Internal Revenue Code of 1986) from any class or classes of aircraft engines, so long as any such limitation is not more stringent than the standards adopted by the International Civil Aviation Organization.".

(i) The amendments made by this Act shall take effect on the date of the enactment of this Act, except the carbon fee under section 9902 of the Internal Revenue Code of 1986 shall apply to uses, sales, or transfers more than 270 days after the date of the enactment of this Act.

(j) In the case of ambiguity, the texts of this statute and its amending texts shall be interpreted so as to allow for the most effective abatement of greenhouse gas emissions.

(k) No preemption of State law.— Nothing in this legislation shall preempt or supersede, or be interpreted to preempt or supersede, any State law or regulation.

SEC. 155. PLASTIC FEE AND DIVIDEND.

(a) In general.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle M—PLASTIC FEE AND DIVIDEND

"CHAPTER 111. PLASTIC FEES.

"SEC. 9921. Definitions.
"SEC. 9922. Plastic production fee.
"SEC. 9923. Plastic consumption fee.
"SEC. 9924. Administrative authority.

"Sec. 9921. Definitions.- For purposes of this subtitle:

"(a) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(b) END CONSUMER. - The term ‘end consumer’ means the final purchaser or consumer of a plastic product. End consumer does not include any person who purchases a plastic product secondhand.

"(c) EXPORT.—The term ‘export’ means to transport a product from within the jurisdiction of the United States to persons outside the United States.

"(d) IMPORT.—Irrespective of any other definition in law or treaty, the term ‘import’ means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States.

"(e) PLASTIC PRODUCT.—The term ‘plastic product’ means any item which contains plastic, including as packaging.

"(f) MANUFACTURER..— The term ‘manufacturer’ means a business entity which produces plastic products from a petrochemical base, including but not limited to polyethylene terephthalate, polyethylene, polyvinyl chloride, polypropylene, polystyrene, polycarbonate, acrylic, acetal, nylon, acrylonitrile butadiene styrene, and fiberglass, and who has gross annual sales greater than $50,000.

"(g) MULTIPACK.— The term ‘multipack’ means a package containing multiple items, often identical, which are intended to be used separately by the end consumer for individual use. ‘Multipack’ does not include items which contain plastic products intended to be assembled or otherwise used together.

"(h) SECRETARY.— The term ‘Secretary’ means the Secretary of the Treasury.

"(i) VIRGIN PLASTIC RESIN.—The term ‘virgin plastic resin’ means resin produced directly from petrochemical feedstock, for the purposes of manufacturing plastic products.

"Sec. 9922. Plastic production fee.

"(a) Plastic production fee.—There is hereby imposed a plastic production fee on the import or production of virgin plastic resin. For purposes of this section, the fee shall be calculated on all sales of virgin plastic resin.

"(1) IN GENERAL.—The plastic production fee rate, with respect to the use, sale, or transfer of virgin plastic resin during a calendar year, shall be—

"(A) in the case of calendar year 2021, 20% of the sale price, and

"(B) in the case of any calendar year thereafter—

"(i) The plastic production fee rate under this chapter for the preceding calendar year, plus 3%.

"(2) (A) In the case of vertically integrated industries where no sale of virgin plastic resin takes place, the plastic production fee shall be calculated at the beginning of each month by multiplying:

"(i) the total weight of the virgin plastic resin produced during the previous calendar month,

"(ii) the average closing price for such material during the previous calendar month, and

"(iii) the plastic production fee for the calendar year.

"(B) If the virgin plastic resin is resold after the plastic production fee has been collected, no additional fee shall apply.

"Sec. 9923. Plastic consumption fee.

"(a) Plastic consumption fee.—There is hereby imposed a plastic consumption fee on the import or manufacture of plastic products.

"(1) IN GENERAL.— The plastic consumption fee shall be calculated as follows:

"(A) For a single unit of plastic product, $.05; or

"(B) For plastic products packaged in multipacks, $.05 each for each individual plastic product included therein.

"(2) EXCEPTIONS.—

"(A) In the case of plastic products sold in bulk quantities and of decreased functionality in single units, the Secretary may by rule establish a weight or measure, of which the quantity shall be considered a single unit under subparagraph (1)(A).

"Sec. 9924. Administrative authority.

"The Secretary shall promulgate rules, guidance, and regulations useful and necessary to implement the plastic production fee and the plastic consumption fee."

TITLE II - ENDING MASS INCARCERATION

Subtitle A - The George Floyd Justice Act

SEC. 201. SHORT TITLE AND DEFINITIONS.

(a) This subtitle may be cited as the "George Floyd Justice Act"

(b) In this Subtitle:

(1) BYRNE GRANT PROGRAM.—The term "Byrne grant program" means any grant program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.), without regard to whether the funds are characterized as being made available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) COPS GRANT PROGRAM.—The term "COPS grant program" means the grant program authorized under section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381).

(3) DEADLY FORCE.—The term "deadly force" means that force which a reasonable person would consider likely to cause death or serious bodily harm, including—

(A) the discharge of a firearm;

(B) a maneuver that restricts blood or oxygen flow to the brain, including chokeholds, strangleholds, neck restraints, neckholds, and carotid artery restraints; and

(C) multiple discharges of an electronic control weapon.

(4) FEDERAL LAW ENFORCEMENT AGENCY.—The term "Federal law enforcement agency" means any agency of the United States authorized to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law.

(5) FEDERAL LAW ENFORCEMENT OFFICER.—The term "Federal law enforcement officer" has the meaning given the term in section 115 of title 18, United States Code.

(6) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term "Indian tribe" in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10251).

(7) LESS LETHAL FORCE.—The term "less lethal force" means any degree of force that is not likely to cause death or serious bodily injury.

(8) LOCAL LAW ENFORCEMENT OFFICER.—The term "local law enforcement officer" means any officer, agent, or employee of a State or unit of local government authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law.

(9) STATE.—The term "State" has the meaning given the term in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10251).

(10) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" has the meaning given the term in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10251).

(11) USE OF FORCE.—The term "use of force" includes—

(A) the use of a firearm, electronic control weapon, explosive device, chemical agent (such as pepper spray), baton, impact projectile, blunt instrument, hand, fist, foot, canine, or vehicle against an individual;

(B) the use of a weapon, including a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy device, or firearm, against an individual; or

(C) any intentional pointing of a firearm at an individual.

SEC. 202. QUALIFIED IMMUNITY REFORM.

(a) Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended by adding at the end the following:

"It shall not be a defense or immunity in any action brought under this section against a local law enforcement officer (as such term is defined in section 201 of the George Floyd Justice Act), or in any action under any source of law against a Federal investigative or law enforcement officer (as such term is defined in section 2680(h) of title 28, United

States Code), that the rights, privileges, or immunities secured by the Constitution and laws were not clearly established at the time of their deprivation by the defendant, or that at such time, the state of the law was otherwise such that the defendant could not reasonably have been expected to know whether his or her conduct was lawful.".

SEC. 203. REQUIRING TRAINING ON DUTY TO INTERVENE.

(a) In general.—The Attorney General shall establish a training program for law enforcement officers that establishes a clear duty to intervene in cases where another law enforcement officer is using excessive force against a civilian.

(b) Mandatory training for Federal law enforcement officers.—The head of each Federal law enforcement agency shall require each Federal law enforcement officer employed by the agency to complete the training programs established under subsection (a).

(c) Limitation on eligibility for funds.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act, a State or unit of local government may not receive funds under the Byrne grant program for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government does not require each law enforcement officer in the State or unit of local government to complete the training programs established under subsection (a).

(d) Grants to train law enforcement officers on use of force.—Section 501(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10152(a)(1)) is amended by adding at the end the following:

"(I) Training programs for law enforcement officers, including training programs on use of force and a duty to intervene.".

SEC. 204. INCENTIVIZING BANNING OF CHOKEHOLDS AND CAROTID HOLDS.

(a) Definition.—In this section, the term "chokehold or carotid hold" means the application of any pressure to the throat or windpipe, the use of maneuvers that restrict blood or oxygen flow to the brain, or carotid artery restraints that prevent or hinder breathing or reduce intake of air of an individual.

(b) Limitation on eligibility for funds.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act, a State or unit of local government may not receive funds under the Byrne grant program or the COPS grant program for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government does not have in effect a law that prohibits law enforcement officers in the State or unit of local government from using a chokehold or carotid hold.

(c) Chokeholds as civil rights violations.—

(1) SHORT TITLE.—This subsection may be cited as the "Eric Garner Justice Act".

(2) CHOKEHOLDS AS CIVIL RIGHTS VIOLATIONS.—Section 242 of title 18, United States Code, is amended by adding at the end the following: "For the purposes of this section, the application of any pressure to the throat or windpipe, use of maneuvers that restrict blood or oxygen flow to the brain, or carotid artery restraints which prevent or hinder breathing or reduce intake of air is a deprivation of rights.".

SEC. 205. POLICE EXERCISING ABSOLUTE CARE WITH EVERYONE ACT.

(a) Short title.—This section may be cited as the "Police Exercising Absolute Care with Everyone Act of 2020" or the "PEACE Act of 2020".

(b) Use of force by Federal law enforcement officers.—

(1) DEFINITIONS.—In this subsection:

(A) DEESCALATION TACTICS AND TECHNIQUES.—The term "deescalation tactics and techniques" means proactive actions and approaches used by a Federal law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person’s voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical techniques, slowing down the pace of an incident, waiting out a subject, creating distance between the officer and the threat, and requesting additional resources to resolve the incident.

(B) NECESSARY.—The term "necessary" means that another reasonable Federal law enforcement officer would objectively conclude, under the totality of the circumstances, that there was no reasonable alternative to the use of force.

(C) REASONABLE ALTERNATIVES.—

(i) IN GENERAL.—The term "reasonable alternatives" means tactics and methods used by a Federal law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, deescalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation without the use of force.

(ii) DEADLY FORCE.—With respect to the use of deadly force, the term "reasonable alternatives" includes the use of less lethal force.

(D) TOTALITY OF THE CIRCUMSTANCES.—The term "totality of the circumstances" means all credible facts known to the Federal law enforcement officer leading up to and at the time of the use of force, including the actions of the person against whom the Federal law enforcement officer uses such force and the actions of the Federal law enforcement officer.

(2) PROHIBITION ON LESS LETHAL FORCE.—A Federal law enforcement officer may not use any less lethal force unless—

(A) the form of less lethal force used is necessary and proportional in order to effectuate an arrest of a person who the officer has probable cause to believe has committed a criminal offense; and

(B) reasonable alternatives to the use of the form of less lethal force have been exhausted.

(3) PROHIBITION ON DEADLY USE OF FORCE.—A Federal law enforcement officer may not use deadly force against a person unless—

(A) the form of deadly force used is necessary, as a last resort, to prevent imminent and serious bodily injury or death to the officer or another person;

(B) the use of the form of deadly force creates no substantial risk of injury to a third person; and

(C) reasonable alternatives to the use of the form of deadly force have been exhausted.

(4) REQUIREMENT TO GIVE VERBAL WARNING.—When feasible, prior to using force against a person, a Federal law enforcement officer shall identify himself or herself as a Federal law enforcement officer, and issue a verbal warning to the person that the Federal law enforcement officer seeks to apprehend, which shall—

(A) include a request that the person surrender to the law enforcement officer; and

(B) notify the person that the law enforcement officer will use force against the person if the person resists arrest or flees.

(5) GUIDANCE ON USE OF FORCE.—Not later than 120 days after the date of enactment of this Act, the Attorney General, in consultation with impacted persons,

communities, and organizations, including representatives of civil and human rights organizations, victims of police use of force, and representatives of law enforcement associations, shall provide guidance to Federal law enforcement agencies on—

(A) the types of less lethal force and deadly force that are prohibited under paragraphs (2) and (3); and

(B) how a Federal law enforcement officer can—

(i) assess whether the use of force is appropriate and necessary; and

(ii) use the least amount of force when interacting with—

(I) pregnant individuals;

(II) children and youth under 21 years of age;

(III) elderly persons;

(IV) persons with mental, behavioral, or physical disabilities or impairments;

(V) persons experiencing perceptual or cognitive impairments due to use of alcohol, narcotics, hallucinogens, or other drugs;

(VI) persons suffering from a serious medical condition; and

(VII) persons with limited English proficiency.

(6) TRAINING.—The Attorney General shall provide training to Federal law enforcement officers on interacting people described in subclauses (I) through (VII) of paragraph (5)(B)(ii).

(7) LIMITATION ON JUSTIFICATION DEFENSE.—

(A) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"Section 1123. Limitation on justification defense for Federal law enforcement officers

"(a) In general.—It is not a defense to an offense under section 1111 or 1112 that the use of less lethal force or deadly force by a Federal law enforcement officer was justified if—

"(1) that officer’s use of use of such force was inconsistent with section 205(b) of the George Floyd Justice Act; or

"(2) that officer's gross negligence, leading up to and at the time of the use of force, contributed to the necessity of the use of such force.

"(b) Definitions.—In this section—

"(1) the terms 'deadly force' and 'less lethal force' have the meanings given such terms in section 201 and section 205 of the George Floyd Justice Act; and

"(2) the term 'Federal law enforcement officer' has the meaning given such term in section 115.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 51 of title 18, United States Code, is amended by inserting after the item relating to section 1122 the following:

"1123. Limitation on justification defense for Federal law enforcement officers.".

(c) Limitation on the receipt of funds under the Edward Byrne Memorial Justice Assistance Grant Program.—

(1) LIMITATION.—A State or unit of local government, other than an Indian Tribe, may not receive funds that the State or unit of local government would otherwise receive under a Byrne grant program for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government does not have in effect a law that is consistent with subsection (b) of this section and section 1123 of title 18, United States Code, as determined by the Attorney General.

(2) SUBSEQUENT ENACTMENT.—

(A) IN GENERAL.—If funds described in paragraph (1) are withheld from a State or unit of local government pursuant to paragraph (1) for 1 or more fiscal years, and the State or unit of local government enacts or puts in place a law described in paragraph (1), and demonstrates substantial efforts to enforce such law, subject to subparagraph (B), the State or unit of local government shall be eligible, in the fiscal year after the fiscal year during which the State or unit of local government demonstrates such substantial efforts, to receive the total amount that the State or unit of local government would have received during each fiscal year for which funds were withheld.

(B) LIMIT ON AMOUNT OF PRIOR YEAR FUNDS.—A State or unit of local government may not receive funds under subparagraph (A) in an amount that is more than the amount withheld from the State or unit of local government during

the 5-fiscal-year period before the fiscal year during which funds are received under subparagraph (A).

(3) GUIDANCE.—Not later than 120 days after the date of enactment of this Act, the Attorney General, in consultation with impacted persons, communities, and organizations, including representatives of civil and human rights organizations, individuals against whom a law enforcement officer used force, and representatives of law enforcement associations, shall make guidance available to States and units of local government on the criteria that the Attorney General will use in determining whether the State or unit of local government has in place a law described in paragraph (1).

(4) APPLICATION.—This subsection shall apply to the first fiscal year that begins after the date that is 1 year after the date of the enactment of this Act, and each fiscal year thereafter.

SEC. 206. LIMITING FURTHER MILITARIZATION OF LAW ENFORCEMENT.

(a) Limitation on Department of Defense transfer of personal property to local law enforcement agencies.—

(1) IN GENERAL.—Section 2576a of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A), by striking "counterdrug, counterterrorism, and border security activities" and inserting "counterterrorism"; and

(ii) in paragraph (2), by striking ", the Director of National Drug Control Policy,";

(B) in subsection (b)—

(i) in paragraph (5), by striking "and" at the end;

(ii) in paragraph (6), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following new paragraphs:

"(7) the recipient submits to the Department of Defense a description of how the recipient expects to use the property;

"(8) the recipient certifies to the Department of Defense that if the recipient determines that the property is surplus to the needs of the recipient, the recipient will return the property to the Department of Defense;

"(9) with respect to a recipient that is not a Federal agency, the recipient certifies to the Department of Defense that the recipient notified the local community of the request for personal property under this section by—

"(A) publishing a notice of such request on a publicly accessible Internet website;

"(B) posting such notice at several prominent locations in the jurisdiction of the recipient; and

"(C) ensuring that such notices were available to the local community for a period of not less than 30 days; and

"(10) the recipient has received the approval of the city council or other local governing body to acquire the personal property sought under this section.";

(C) by striking subsection (d);

(D) by redesignating subsections (e) and (f) as subsections (o) and (p), respectively; and

(E) by inserting after subsection (c) the following new subsections:

"(d) Annual certification accounting for transferred property.— (1) For each fiscal year, the Secretary shall submit to Congress certification in writing that each Federal or State agency to which the Secretary has transferred property under this section—

"(A) has provided to the Secretary documentation accounting for all controlled property, including arms and ammunition, that the Secretary has transferred to the agency, including any item described in subsection (f) so transferred before the date of the enactment of the George Floyd Justice Act; and

"(B) with respect to a non-Federal agency, carried out each of paragraphs (5) through (8) of subsection (b).

"(2) If the Secretary does not provide a certification under paragraph (1) for a Federal or State agency, the Secretary may not transfer additional property to that agency under this section.

"(e) Annual report on excess property.—Before making any property available for transfer under this section, the Secretary shall annually submit to Congress a description of the property to be transferred together with a certification that the transfer of the property would not violate this section or any other provision of law.

"(f) Limitations on transfers.— (1) The Secretary may not transfer to Federal, Tribal, State, or local law enforcement agencies the following under this section:

"(A) Firearms, ammunition, bayonets, grenade launchers, grenades (including stun and flash-bang), and explosives.

"(B) Vehicles, except for passenger automobiles (as such term is defined in section 32901(a)(18) of title 49, United States Code) and bucket trucks.

"(C) Drones.

"(D) Controlled aircraft that—

"(i) are combat configured or combat coded; or

"(ii) have no established commercial flight application.

"(E) Silencers.

"(F) Long-range acoustic devices.

"(G) Items in the Federal Supply Class of banned items.

"(2) The Secretary may not require, as a condition of a transfer under this section, that a Federal or State agency demonstrate the use of any small arms or ammunition.

"(3) The limitations under this subsection shall also apply with respect to the transfer of previously transferred property of the Department of Defense from one Federal or State agency to another such agency.

"(4) (A) The Secretary may waive the applicability of paragraph (1) to a vehicle described in subparagraph (B) of such paragraph (other than a mine-resistant ambush-protected vehicle), if the Secretary determines that such a waiver is necessary for disaster or rescue purposes or for another purpose where life and public safety are at risk, as demonstrated by the proposed recipient of the vehicle.

"(B) If the Secretary issues a waiver under subparagraph (A), the Secretary shall—

"(i) submit to Congress notice of the waiver, and post such notice on a public Internet website of the Department, by not later than 30 days after the date on which the waiver is issued; and

"(ii) require, as a condition of the waiver, that the recipient of the vehicle for which the waiver is issued provides public notice of the waiver and the

transfer, including the type of vehicle and the purpose for which it is transferred, in the jurisdiction where the recipient is located by not later than 30 days after the date on which the waiver is issued.

"(5) The Secretary may provide for an exemption to the limitation under subparagraph (D) of paragraph (1) in the case of parts for aircraft described in such subparagraph that are transferred as part of regular maintenance of aircraft in an existing fleet.

"(6) The Secretary shall require, as a condition of any transfer of property under this section, that the Federal or State agency that receives the property shall return the property to the Secretary if the agency—

"(A) is investigated by the Department of Justice for any violation of civil liberties; or

"(B) is otherwise found to have engaged in widespread abuses of civil liberties.

"(g) Conditions for extension of program.—Notwithstanding any other provision of law, amounts authorized to be appropriated or otherwise made available for any fiscal year may not be obligated or expended to carry out this section unless the Secretary submits to Congress certification that for the preceding fiscal year that—

"(1) each Federal or State agency that has received controlled property transferred under this section has—

"(A) demonstrated 100 percent accountability for all such property, in accordance with paragraph (2) or (3), as applicable; or

"(B) been suspended from the program pursuant to paragraph (4);

"(2) with respect to each non-Federal agency that has received controlled property under this section, the State coordinator responsible for each such agency has verified that the coordinator or an agent of the coordinator has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended from the program pursuant to paragraph (4);

"(3) with respect to each Federal agency that has received controlled property under this section, the Secretary of Defense or an agent of the Secretary has conducted an in-person inventory of the property transferred to the agency and that 100 percent of such property was accounted for during the inventory or that the agency has been suspended from the program pursuant to paragraph (4);

"(4) the eligibility of any agency that has received controlled property under this section for which 100 percent of the property was not accounted for during an inventory described in paragraph (1) or (2), as applicable, to receive any property transferred under this section has been suspended; and

"(5) each State coordinator has certified, for each non-Federal agency located in the State for which the State coordinator is responsible that—

"(A) the agency has complied with all requirements under this section; or

"(B) the eligibility of the agency to receive property transferred under this section has been suspended; and

"(6) the Secretary of Defense has certified, for each Federal agency that has received property under this section that—

"(A) the agency has complied with all requirements under this section; or

"(B) the eligibility of the agency to receive property transferred under this section has been suspended.

"(h) Prohibition on ownership of controlled property.—A Federal or State agency that receives controlled property under this section may not take ownership of the property.

"(i) Notice to Congress of property downgrades.—Not later than 30 days before downgrading the classification of any item of personal property from controlled or Federal Supply Class, the Secretary shall submit to Congress notice of the proposed downgrade.

"(j) Notice to Congress of property cannibalization.—Before the Defense Logistics Agency authorizes the recipient of property transferred under this section to cannibalize the property, the Secretary shall submit to Congress notice of such authorization, including the name of the recipient requesting the authorization, the purpose of the proposed cannibalization, and the type of property proposed to be cannibalized.

"(k) Quarterly reports on use of controlled equipment.—Not later than 30 days after the last day of a fiscal quarter, the Secretary shall submit to Congress a report on any uses of controlled property transferred under this section during that fiscal quarter.

"(l) Reports to Congress.—Not later than 30 days after the last day of a fiscal year, the Secretary shall submit to Congress a report on the following for the preceding fiscal year:

"(1) The percentage of equipment lost by recipients of property transferred under this section, including specific information about the type of property lost, the monetary value of such property, and the recipient that lost the property.

"(2) The transfer of any new (condition code A) property transferred under this section, including specific information about the type of property, the recipient of the property, the monetary value of each item of the property, and the total monetary value of all such property transferred during the fiscal year.".

SEC. 207. PROHIBITION ON ENGAGING IN SEXUAL ACTS WHILE ACTING UNDER COLOR OF LAW.

(a) In general.—Section 2243 of title 18, United States Code, is amended—

(1) in the section heading, by adding at the end the following: "or by any person acting under color of law";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

"(c) Of an individual by any person acting under color of law.—

"(1) IN GENERAL.—Whoever, acting under color of law, knowingly engages in a sexual act with an individual, including an individual who is under arrest, in detention, or otherwise in the actual custody of any Federal law enforcement officer, shall be fined under this title, imprisoned not more than 15 years, or both.

"(2) DEFINITION.—In this subsection, the term ‘sexual act’ has the meaning given the term in section 2246."; and

"(4) in subsection (d), as so redesignated, by adding at the end the following:

"(3) In a prosecution under subsection (c), it is not a defense that the other individual consented to the sexual act.".

(b) Definition.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (6) the following:

"(7) the term ‘Federal law enforcement officer’ has the meaning given the term in section 115.".

(c) Clerical amendment.—The table of sections for chapter 109A of title 18, United States Code, is amended by amending the item related to section 2243 to read as follows:

"2243. Sexual abuse of a minor or ward or by any person acting under color of law. ".

SEC. 208. ENACTMENT OF LAWS PENALIZING ENGAGING IN SEXUAL ACTS WHILE ACTING UNDER THE COLOR OF LAW.

(a) In general.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act, in the case of a State or unit of local government that does not have in effect a law described in subsection (b), if that State or unit of local government that would otherwise receive funds under the COPS grant program, that State or unit of local government shall not be eligible to receive such funds. In the case of a multi-jurisdictional or regional consortium, if any member of that consortium is a State or unit of local government that does not have in effect a law described in subsection (b), if that consortium would otherwise receive funds under the COPS grant program, that consortium shall not be eligible to receive such funds.

(b) Description of law.—A law described in this subsection is a law that—

(1) makes it a criminal offense for any person acting under color of law of the State or unit of local government to engage in a sexual act with an individual, including an individual who is under arrest, in detention, or otherwise in the actual custody of any law enforcement officer; and

(2) prohibits a person charged with an offense described in paragraph (1) from asserting the consent of the other individual as a defense.

(c) Reporting requirement.—A State or unit of local government that receives a grant under the COPS grant program shall submit to the Attorney General, on an annual basis, information on—

(1) the number of reports made to law enforcement agencies in that State or unit of local government regarding persons engaging in a sexual act while acting under color of law during the previous year; and

(2) the disposition of each case in which sexual misconduct by a person acting under color of law was reported during the previous year.

SEC. 209. BAN ON NO-KNOCK WARRANTS.

(a) This Section may be cited as the "Breonna Taylor Justice Act".

(b) Federal prohibition.—Notwithstanding any other provision of law, a Federal law enforcement officer (as defined in section 115 of title 18, United States Code) may not forcibly enter any occupied dwelling to serve a warrant unless—

(1) it is daytime, as defined in Rule 41(a)(2)(B), unless the judge for good cause expressly authorizes execution at another time; and
(2) the officer is refused admittance by the occupant, pursuant to section 3109 of title 18, United States Code, after providing notice of their authority and purpose.

(c) It shall be a rebuttable presumption that admittance was refused to an occupied dwelling if the officer forcibly knocked on the door and announced their presence-

(1) between 8am and 9pm, no less than four times, at spaced intervals, over no less than three minutes; or
(2) between 9pm and 8am, no less than six times, at spaced intervals, over no less than five minutes.

(d) Limitation on eligibility for funds.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act, a State or unit of local government may not receive funds under the COPS grant program for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government does not have in effect a law that prohibits the issuance of a no-knock warrant in a drug case.

SEC. 210. CASH BAIL REFORM.

(a) Notwithstanding any provision of Federal law, no justice, judge, or other judicial official in any court created by or under article III of the Constitution of the United States may use payment of money as a condition of pretrial release in any criminal case.

(b) Beginning in the 2022 fiscal year, a State may not receive funds under the Byrne grant program for that fiscal year unless, on the day before the first day of the fiscal year,—

(1) the State has submitted to the Attorney General the percentage of criminal cases where payment of money was a condition of pretrial release during the 12 months ending June 30 of that year; and

(2) achieved a percentage below the threshold for the year:

(A) for fiscal year 2022; 80%

(B) for fiscal year 2023, 55%

(C) for fiscal year 2024, 30%

(D) for fiscal year 2025 and beyond, 10%,

SEC. 211. ENDING CIVIL ASSET FORFEITURE.

(a) Section 983 of title 18, United States Code, is amended—

(1) in subsection (b)(2)(A)—

(A) by striking ", and the property subject to forfeiture is real property that is being used by the person as a primary residence,"; and

(B) by striking ", at the request of the person, shall insure" and insert "shall ensure";

(2) in subsection (c)—

(A) in paragraph (1), by striking "a preponderance of the evidence" and inserting "clear and convincing evidence";

(B) in paragraph (2), by striking "a preponderance of the evidence" and inserting "clear and convincing evidence"; and

(C) by striking paragraph (3) and inserting the following:

"(3) if the Government's theory of forfeiture is that the property was used to commit or facilitate the commission of a criminal offense, or was involved in the commission of a criminal offense, the Government shall establish, by clear and convincing evidence, that—

"(A) there was a substantial connection between the property and the offense; and

"(B) the owner of any interest in the seized property—

"(i) used the property with intent to facilitate the offense; or

"(ii) knowingly consented or was willfully blind to the use of the property by another in connection with the offense."; and

(3) in subsection (d)(2)(A), by striking "an owner who" and all that follows through "upon learning" and inserting "an owner who, upon learning".

(b) Revisions to Controlled Substances Act.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "civilly or";

(B) by striking subparagraph (A); and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively;

(2) in paragraph (2)—

(A) in subparagraph (A), in the matter preceding clause (i), by striking "subparagraph (B) of paragraph (1)" and inserting "paragraph (1)(A)"; and

(B) in subparagraph (B), by striking "accordance with section 524(c) of title 28," and inserting "the General Fund of the Treasury of the United States";

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) in paragraph (3), as redesignated—

(A) in subparagraph (A), by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "paragraph (1)(B) that is civilly or" and inserting paragraph "(1)(A) that is".

(c) Revisions to title 18.—Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(e)—

(A) by striking "is authorized" and all that follows through "or forfeiture of the property;" and inserting "shall forward to the Treasurer of the United States any proceeds of property forfeited pursuant to this section for deposit in the General

Fund of the Treasury or transfer such property on such terms and conditions as such officer may determine—";

(B) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively; and

(C) in the matter following paragraph (5), as so redesignated—

(i) by striking the first, second, third, sixth, and eighth sentences; and

(ii) by striking "paragraph (3), (4), or (5)" and inserting "paragraph (1), (2), or (3)"; and

(2) in section 983(g)—

(A) in paragraph (3), by striking "grossly"; and

(B) in paragraph (4), by striking "grossly".

(d) Tariff Act of 1930.—The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is amended—

(1) in section 613A(a) (19 U.S.C. 1613b(a))—

(A) in paragraph (1)—

(i) in subparagraph (D), by inserting "and" after the semicolon;

(ii) in subparagraph (E), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (F); and

(B) in paragraph (2)—

(i) by striking "(A) Any payment" and inserting "Any payment"; and

(ii) by striking subparagraph (B); and

(2) in section 616 (19 U.S.C. 1616a)—

(A) in the section heading, by striking "Transfer of forfeited property" and inserting "Dismissal in favor of forfeiture under State law";

(B) in subsection (a), by striking "(a) The Secretary" and inserting "The Secretary"; and

(C) by striking subsections (b) through (d).

(e) Title 31.—Section 9705 of title 31, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraph (G); and

(B) by redesignating subparagraphs (H) through (J) as subparagraphs (G) through (I), respectively; and

(2) in subsection (b)—

(A) by striking paragraphs (2) and (4); and

(B) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(f) Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking subparagraphs (A) and (B); and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(g) Section 5324 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "knowingly" after "Public Law 91–508"; and

(B) in paragraph (3), by inserting "of funds not derived from a legitimate source" after "any transaction";

(2) in subsection (b), in the matter preceding paragraph (1), by inserting "knowingly" after "such section"; and

(3) in subsection (c), in the matter preceding paragraph (1), by inserting "knowingly" after "section 5316".

(h) Probable cause hearing in connection with property seizures relating to certain monetary instruments transactions.—

(1) AMENDMENT.—Section 5317 of title 31, United States Code, is amended by adding at the end the following:

"(d) Probable cause hearing in connection with property seizures relating to certain monetary instruments transactions.—

"(1) IN GENERAL.—Not later than 14 days after the date on which notice is provided under paragraph (2)—

"(A) a court of competent jurisdiction shall conduct a hearing on any property seized or restrained under subsection (c)(2) with respect to an alleged violation of section 5324; and

"(B) any property described in subparagraph (A) shall be returned unless the court finds that there is probable cause to believe that there is a violation of section 5324 involving the property.

"(2) NOTICE.—Each person from whom property is seized or restrained under subsection (c)(2) with respect to an alleged violation of section 5324 shall be notified of the right of the person to a hearing under paragraph (1).".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to property seized or restrained after the date of enactment of this Act.

(i) Section 983(g)(2) of title 18, United States Code, is amended to read as follows:

"(2) In making this determination, the court shall consider such factors as—

"(A) the seriousness of the offense;

"(B) the extent of the nexus of the property to the offense;

"(C) the range of sentences available for the offense giving rise to forfeiture;

"(D) the fair market value of the property; and

"(E) the hardship to the property owner and dependents.".

(j) Section 524(c)(6)(i) of title 28, United States Code, is amended by inserting "from each type of forfeiture, and specifically identifying which funds were obtained from including criminal forfeitures and which were obtained from civil forfeitures," after "deposits".

(h) Applicability: The amendments made by Sec. 211. shall apply to—

(1) any civil forfeiture proceeding pending on or filed on or after the date of enactment of this Act; and

(2) any amounts received from the forfeiture of property on or after the date of enactment of this Act.

SEC. 212. AMERICAN UNION LEGAL DEFENSE FUND.

(a) There is a committee established to propose legislation creating a voucher program for legal services. Not later than 60 days after the date of enactment of this section, the President or his designee shall appoint seven members, including at least one representing each of the following;

(1) Trial lawyers,

(2) Providers of other legal services,

(3) Prosecutors,

(4) Defense attorneys, and

(5) Defendants.

(b) Such a committee may meet by video conference, provided that such meeting is available for public viewing.

(c) The members of the committee shall not receive compensation for the performance of their duties.

(d) The proposed legislation shall:

(1) Establish a program by which each person arrested within the United States promptly receives a voucher for legal services.

(A) Such voucher shall entitle the person to legal services in a dollar amount greater than or equal to the average cost of one hour of a defense attorney's time.

(B) The committee shall study what additional vouchers should be provided for court appearances or other milestones in the proceedings, and in what amount.

(2) Establish funding thresholds by which this program shall be expanded to

(A) provide vouchers to all households which include a person employed under section 101, and the amount thereof, and

(B) provide vouchers to defending parties in non-criminal cases, including family court, small claims court, and other civil proceedings.

(3) Establish requirements that licensed practitioners of legal services accept such vouchers, and fund this program through a fee on practicing legal services, not to exceed 15%.

(e) The committee shall issue a public recommendation for legislation to the Speaker of the House and Majority Leader of the Senate no later than December 31, 2021.

PART I - NATIONAL POLICE MISCONDUCT REGISTRY

SEC. 221. ESTABLISHMENT OF NATIONAL POLICE MISCONDUCT REGISTRY.

(a) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall establish a National Police Misconduct Registry to be compiled and maintained by the Department of Justice.

(b) Contents of registry.—The Registry required to be established under subsection (a) shall contain the following data with respect to all Federal and local law enforcement officers:

(1) Each complaint filed against a law enforcement officer, aggregated by—

(A) complaints that were found to be credible or that resulted in disciplinary action against the law enforcement officer, disaggregated by whether the complaint involved a use of force or racial profiling (as such term is defined in section 302);

(B) complaints that are pending review, disaggregated by whether the complaint involved a use of force or racial profiling; and

(C) complaints for which the law enforcement officer was exonerated or that were determined to be unfounded or not sustained, disaggregated by whether the complaint involved a use of force or racial profiling.

(2) Discipline records, disaggregated by whether the complaint involved a use of force or racial profiling.

(3) Termination records, the reason for each termination, disaggregated by whether the complaint involved a use of force or racial profiling.

(4) Records of certification in accordance with section 202.

(5) Records of lawsuits against law enforcement officers and settlements of such lawsuits.

(6) Instances where a law enforcement officer resigns or retires while under active investigation related to the use of force.

(c) Federal agency reporting requirements.—Not later than 1 year after the date of enactment of this Act, and every 6 months thereafter, the head of each Federal law enforcement agency shall submit to the Attorney General the information described in subsection (b).

(d) State and local law enforcement agency reporting requirements.—Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act and each fiscal year thereafter in which a State receives funds under the Byrne grant program, the State shall, once every 180 days, submit to the Attorney General the information described in subsection (b) for the State and each local law enforcement agency within the State.

(e) Public availability of registry.—

(1) IN GENERAL.—In establishing the Registry required under subsection (a), the Attorney General shall make the Registry available to the public on an internet website of the Attorney General in a manner that allows members of the public to search for an individual law enforcement officer's records of misconduct, as described in subsection (b), involving a use of force or racial profiling.

(2) PRIVACY PROTECTIONS.—Nothing in this subsection shall be construed to supersede the requirements or limitations under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(3) AUTHORITY TO DISCLOSE RECORDS. — Section 552 of title 5, United States Code, is amended—

(A) in paragraph (2)(a)—

(i) in subparagraph (D), by striking "and" at the end;

(ii) in subparagraph (E), by striking the period and inserting "; and"; and

(iii) by adding at the end the following new paragraphs:

"(F) Records collected for the National Police Misconduct Registry established by Section 221 of the George Floyd Justice Act."

SEC. 222. CERTIFICATION REQUIREMENTS FOR HIRING OF LAW ENFORCEMENT OFFICERS.

(a) In general.— Beginning in the first fiscal year that begins after the date that is one year after the date of the enactment of this Act, a State or unit of local government, other than an Indian Tribe, may not receive funds under the Byrne grant program for that fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government has not—

(1) submitted to the Attorney General evidence that the State or unit of local government has a certification and decertification program for purposes of employment as a law enforcement officer in that State or unit of local government that is consistent with the rules made under subsection (c); and

(2) submitted to the National Police Misconduct Registry established under section 221 records demonstrating that all law enforcement officers of the State or unit of local government have completed all State certification requirements during the 1-year period preceding the fiscal year.

(b) Availability of information.—The Attorney General shall make available to law enforcement agencies all information in the registry under section 221 for purposes of compliance with the certification and decertification programs described in subsection (a)(1) and considering applications for employment.

(c) Rules.—The Attorney General shall make rules to carry out this section and section 221, including uniform reporting standards.

Subtitle B - The Weldon Angelos Justice Act

SEC. 231. SHORT TITLE AND DEFINITIONS.

(a) This subtitle may be cited as "The Weldon Angelos Justice Act"

(b) In this Subtitle:

(1) DRUG OFFENSE.—The term "drug offense" means a criminal act associated with the Controlled Substances Act, as it was in effect prior to enactment of this Act, or other offense that is no longer punishable pursuant to enactment of the Weldon Angelos Justice Act or the amendments made under this Act.

SEC. 232. REPEAL OF THE CONTROLLED SUBSTANCES ACT.

(a) It is the sense of the Congress that incarcerating or otherwise subjecting an individual to criminal penalties solely for recreational drug use is not justice, which the Preamble to the Constitution requires be established by the people of the United States.

(b) Notwithstanding any other provision in law, it is an affirmative defense to any federal drug offense that the intended use of the drugs in question was recreational. Nothing in this subsection may be construed as prohibiting charges for non-drug offenses incidental to the drugs in question.

(c) Chapter 13 of title 21, United States Code, is repealed.

SEC. 233. REPEAL OF OTHER DRUG OFFENSES.

(a) Repealing other drug offenses.—
(1) Subsection 844(o) of title 844, United States Code, is amended by striking, "or drug trafficking crime (as defined in section 924(c)(2))".

(2) Subparagraph 10152(a)(1)(E) of title 34, United States Code, is amended by striking "and enforcement"

(3) Chapter 24 of title 21, United States Code, is amended by—

(A) repealing sections 1901, 1902, and 1904-1908

(B) amending section 1903 by striking subsections (a)-(g)

(4) Sections 1101, 1102, and 1115 of title 21, United States Code, are repealed.

(5) Subparagraph 1523(9)(A) of title 21, United States Code, is amended by striking "illegal use or"

(6) Chapter 22 of title 21, United States Code, is repealed.

(7) Sections 1501 to 1521 of Title 21, United States Code, are repealed.

(8) Chapter 28 of Title 21, United States Code, is repealed.

(9) Subchapter II of Chapter 25 of Title 21, United States Code, is repealed.

(10) Sections 559b - 559f of Title 16, United States Code, are repealed.

(11) Section 809 of Public Law 116-93 is repealed.

(12) Subchapter IV of chapter 121 of title 34, United States Code, is repealed.

SEC. 234. RETROACTIVITY.

(a) Retroactivity.—The repeals under section 232 and 233 are retroactive and shall apply to any offense committed, case pending, conviction entered, and, in the case of a juvenile, any offense committed, case pending, or adjudication of juvenile delinquency entered before, on, or after the date of enactment of this Act.

SEC. 235. BANKING NOT PROHIBITED.

(a) For the purposes of sections 1956 and 1957 of title 18, United States Code, and all other provisions of Federal law, the proceeds from a transaction involving activities of a drug-related legitimate business or service provider shall not be considered proceeds from an unlawful activity solely because the transaction involves proceeds from a business or service provider who lawfully produces, sells, or otherwise distributes substances formerly prohibited under the Controlled Substances Act.

SEC. 236. IMPOSING A SALES TAX.

(a) Trust Fund.—

(1) ESTABLISHMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. Opportunity trust fund.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the ‘Opportunity Trust Fund’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to such fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There are hereby appropriated to the Trust Fund amounts equivalent to 30% of revenues received in the Treasury from the tax imposed by section 5701(h).

"(c) Expenditures.—Amounts in the Trust Fund shall be available, without further appropriation, only as follows:

"(1) 40 percent to the Attorney General to carry out section 3052(a)(1) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968.

"(2) 30 percent to the Attorney General to carry out section 3052(a)(2) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968.

"(3) 30 percent to the Attorney General to carry out section 3052(a)(3) of part OO of the Omnibus Crime Control and Safe Streets Act of 1968.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

"Sec. 9512. Opportunity trust fund.".

(b) Imposition Of Tax.—

(1) IN GENERAL.—Section 5701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Recreational Intoxicating Products.—On recreational intoxicating products, manufactured in or imported into the United States, there shall be imposed a tax on all retail sales equal to 12 percent of the gross price.".

(2) INTOXICATING PRODUCT DEFINED.—Section 5702 of such Code is amended by adding at the end the following new subsection:

"(q) Recreational Intoxicating Product.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘recreational intoxicating product’ means any product or derivative of a substance formerly listed under the Controlled Substances Act.

"(2) EXCEPTION.—The term ‘recreational intoxicating product’ shall not include any medicine or drug that is a prescribed drug (as such term is defined in section 213(d)(3) of Title 26, United States Code).

SEC. 237. ESTABLISHING THE DRUG WAR JUSTICE OFFICE.

(a) Drug War Justice Office; Community Reinvestment Grant Program.—

(1) DRUG WAR JUSTICE OFFICE.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended by inserting after section 109 the following:

"SEC. 110. DRUG WAR JUSTICE OFFICE.

"(a) Establishment.—There is established within the Office of Justice Programs a Drug War Justice Office.

"(b) Director.—The Drug War Justice Office shall be headed by a Director who shall be appointed by the Assistant Attorney General for the Office of Justice Programs. The Director shall report to the Assistant Attorney General for the Office of Justice Programs. The Director shall award grants and may enter into compacts, cooperative agreements, and contracts on behalf of the Drug War Justice Office. The Director may not engage in any employment other than that of serving as the Director, nor may the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement.

"(c) Employees.—

"(1) IN GENERAL.—The Director shall employ as many full-time employees as are needed to carry out the duties and functions of the Drug War Justice Office under subsection (d). Such employees shall be exclusively assigned to the Drug War Justice Office.

"(2) INITIAL HIRES.—Not later than 6 months after the date of enactment of this section, the Director shall hire no less than one-third of the total number of employees of the Drug War Justice Office.

"(3) LEGAL COUNSEL.—At least one employee hired for the Drug War Justice Office shall serve as legal counsel to the Director and shall provide counsel to the Drug War Justice Office.

"(d) Duties And Functions.—The Drug War Justice Office is authorized to—

"(1) administer the Community Reinvestment Grant Program; and

"(2) perform such other functions as the Assistant Attorney General for the Office of Justice Programs may delegate, that are consistent with the statutory obligations of this section, including

"(A) submitting to the Congress a proposed draft of legislation that, if enacted, would implement such technical and conforming amendments that would further clarify and implement the provisions of this section. Such submission shall include repeals of provisions of law that are inconsistent with the Weldon Angelos Justice Act; and

"(B) making recommendations from time to time for rebalancing the percentages in section 9512(c) of title 112, United States Code.".

(2) COMMUNITY REINVESTMENT GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. et seq.) is amended by adding at the end the following:

"PART OO—COMMUNITY REINVESTMENT GRANT PROGRAM

"SEC. 3052. AUTHORIZATION.

"(a) In General.—The Director of the Drug War Justice Office shall establish and carry out a grant program, known as the 'Community Reinvestment Grant Program', to provide eligible entities with funds to—

"(1) administer services for individuals most adversely impacted by the War on Drugs, including job training, reentry services, literacy programs, youth recreation or mentoring programs, and health education programs;

"(2) administer substance use treatment services for any individuals who request services, with an emphasis on those most adversely impacted by the War on Drugs, and

"(3) administer legal aid for civil and criminal drug offenses, including expungement of drug convictions.

"SEC. 3053. FUNDING FROM OPPORTUNITY TRUST FUND.

"(a) The Director shall carry out the program under this part using funds made available under section 9512(c)(1) and (2) of the Internal Revenue Code.

"(b) Initial funding for this program shall be appropriated from unspent funds authorized by section 559e of Title 16, United States Code, and Section 1711 of Title 21, United States Code, after their repeal pursuant to Section 211of the Weldon Angelos Justice Act.

SEC. 238. RULEMAKING AUTHORITY.

(a) Unless otherwise provided in this Act, not later than 1 year after the date of enactment of this Act, the Department of the Treasury, the Department of Justice, and the Small Business Administration shall issue or amend any rules, standard operating procedures, and other legal or policy guidance necessary to carry out implementation of this Act.

After the 1-year period, any publicly issued sub-regulatory guidance, including any compliance guides, manuals, advisories and notices, may not be issued without 60-day notice to appropriate congressional committees. Notice shall include a description and justification for additional guidance.

(b) Unless otherwise provided in this Act, not later than 1 year after the date of enactment of this Act, the Commissioner of Food and Drugs, in consultation with the Drug War Justice Office, shall issue rules and standards for the quality, purity, and labeling of recreational intoxicating products, as defined in section 5702(q) of title 26, United States Code, which are offered for sale in the United States.

SEC. 239. EXPUNGEMENT.

(a) Definitions— in this section:

(1) The term "drug offense" means an offense that is no longer punishable pursuant to enactment of the Weldon Angelos Justice Act or the amendments made under this Act.

(2) The term "expunge" means, with respect to an arrest, a conviction, or a juvenile delinquency adjudication, the removal of the record of such arrest, conviction, or adjudication from each official index or public record.

(3) The term "under a criminal justice sentence" means, with respect to an individual, that the individual is serving a term of probation, parole, supervised release, imprisonment, official detention, pre-release custody, or work release, pursuant to a sentence or disposition of juvenile delinquency imposed on or after the effective date of the Controlled Substances Act (May 1, 1971).

(b) Expungement of drug offense convictions for individuals not under a criminal justice sentence.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, each Federal district shall conduct a comprehensive review and issue an order expunging each conviction or adjudication of juvenile delinquency for a drug offense entered by each Federal court in the district before the date of enactment of this Act and on or after May 1, 1971. Each Federal court shall also issue an order expunging any arrests associated with each expunged conviction or adjudication of juvenile delinquency.

(2) NOTIFICATION.—To the extent practicable, each Federal district shall notify each individual whose arrest, conviction, or adjudication of delinquency has been

expunged pursuant to this subsection that their arrest, conviction, or adjudication of juvenile delinquency has been expunged, and the effect of such expungement.

(3) RIGHT TO PETITION COURT FOR EXPUNGEMENT.—At any point after the date of enactment of this Act, any individual with a prior conviction or adjudication of juvenile delinquency for a drug offense, who is not under a criminal justice sentence, may file a motion for expungement. If the expungement of such a conviction or adjudication of juvenile delinquency is required pursuant to this Act, the court shall expunge the conviction or adjudication, and any associated arrests. If the individual is indigent, counsel shall be appointed to represent the individual in any proceedings under this subsection.

(4) SEALED RECORD.—The court shall seal all records related to a conviction or adjudication of juvenile delinquency that has been expunged under this subsection. Such records may only be made available by further order of the court.

(c) Effect of expungement.—An individual who has had an arrest, a conviction, or juvenile delinquency adjudication expunged under this section—

(1) may treat the arrest, conviction, or adjudication as if it never occurred; and

(2) shall be immune from any civil or criminal penalties related to perjury, false swearing, or false statements, for a failure to disclose such arrest, conviction, or adjudication.

PART I - PROTECT BRAVE WHISTLEBLOWERS ACT

SEC. 240. CLARIFYING CERTAIN OFFENSES RELATED TO ESPIONAGE.

(a) Gathering, transmitting, or losing defense information.—Section 793 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "with intent or reason to believe" and inserting "with specific intent";

(2) in subsection (b)—

(A) by striking "or reason to believe"; and

(B) by inserting "that has been properly classified that is" after "of anything";

(3) in subsection (c), by inserting "that has been properly classified that is" after "of anything";

(4) in subsection (d), by inserting after "willfully" each place it appears the following: ", and with specific intent to injure the United States or advantage any foreign nation,"; and

(5) in subsection (e), by inserting after "willfully" each place it appears the following: ", and with specific intent to injure the United States or advantage any foreign nation,".

(b) Disclosure of classified information.—Section 798(a) of title 18, United States Code, is amended by inserting after "knowingly and willfully" the following: ", and with specific intent to injure the United States or advantage any foreign nation,".

(c) Authority To disclose information.—Section 798(c) of title 18, United States Code, is amended by striking "furnishing," and all that follows and inserting the following: "furnishing of information to—

"(1) any Member of the Senate or the House of Representatives;

"(2) a Federal court, in accordance with such procedures as the court may establish;

"(3) the inspector general of an element of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)), including the Inspector General of the Intelligence Community;

"(4) the Chairman or a member of the Privacy and Civil Liberties Oversight Board or any employee of the Board designated by the Board, in accordance with such procedures as the Board may establish;

"(5) the Chairman or a commissioner of the Federal Trade Commission or any employee of the Commission designated by the Commission, in accordance with such procedures as the Commission may establish;

"(6) the Chairman or a commissioner of the Federal Communications Commission or any employee of the Commission designated by the Commission, in accordance with such procedures as the Commission may establish; or

"(7) any other person or entity authorized to receive disclosures containing classified information pursuant to any applicable law, regulation, or executive order regarding the protection of whistleblowers.".

(d) Testimony of purpose.—

(1) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended by adding at the end the following:

"§ 799A. Testimony of purpose

"A defendant charged with an offense under section 793 or 798 shall be permitted to testify about their purpose for engaging in the prohibited conduct.

"§ 799B. Affirmative defense

"It is an affirmative defense to a charge under section 793 or 798 that the defendant engaged in the prohibited conduct for the purpose of disclosing to the public—

"(1) any violation of any law, rule, or regulation; or

"(2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 37 is amended by adding at the end the following:

"799A. Testimony of purpose.

"799B. Affirmative defense.".

Subtitle C - The Matthew Charles Prison Reform Act

SEC. 251. SHORT TITLE.

(a) This subtitle may be cited as "The Matthew Charles Prison Reform Act"

SEC. 252. MODIFICATION OF CERTAIN TERMS OF IMPRISONMENT.

(a) In General.—Subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after section 3626 the following:

"SEC. 3627. MODIFICATION OF CERTAIN TERMS OF IMPRISONMENT.

"(a) In General.—Notwithstanding any other provision of law, a court may reduce a term of imprisonment imposed upon a defendant if—

"(1) the imposed term of imprisonment was more than 10 years;

"(2) the defendant has served

(A) not less than 10 years in custody for the offense; or

(B) if the sentence was imposed in part for drug offenses, the cumulative sentence which was not related to drug offenses; and

"(3) the court finds, after considering the factors set forth in subsection (c), that—

"(A) the defendant—

"(i) is not a danger to the safety of any person or the community; and

"(ii) demonstrates readiness for reentry; and

"(B) the interests of justice warrant a sentence modification.

"(b) (1) For any individual who is under a criminal justice sentence for a drug offense, the court that imposed the sentence shall, on motion of the individual, the Director of the Bureau of Prisons, the attorney for the Government, or the court, conduct a sentencing review hearing. If the individual is indigent, counsel shall be appointed to represent the individual in any sentencing review proceedings under this subsection.

"(2) Drug Offenses.—Notwithstanding any other provision of law, there is a rebuttable presumption that a court shall reduce a term of imprisonment imposed upon a defendant if the term of imprisonment resulted in whole or in part from a drug offense. The term "drug offense" means an offense that is no longer punishable pursuant to enactment of the Weldon Angelos Justice Act or the amendments made under this Act.

"(c) Supervised Release.—

"(1) IN GENERAL.—Any defendant whose sentence is reduced pursuant to subsection (a), shall be ordered to serve—

"(A) the term of supervised release included as part of the original sentence imposed on the defendant; or

"(B) in the case of a defendant whose original sentence did not include a term of supervised release, a term of supervised release not to exceed the authorized terms of supervised release described in section 3583.

"(2) CONDITIONS OF SUPERVISED RELEASE.—The conditions of supervised release and any modification or revocation of the term of supervised release shall be in accordance with section 3583.

"(3) POTENTIAL REDUCED RESENTENCING.—After a sentencing hearing under subsection (b), a court may—

"(A) expunge each conviction or adjudication of juvenile delinquency for a drug offense entered by the court before the date of enactment of this Act, and any associated arrest;

"(B) vacate the existing sentence or disposition of juvenile delinquency and, if applicable, impose any remaining sentence or disposition of juvenile delinquency on the individual as if the Weldon Angelos Justice Act, and the amendments made by this Act, were in effect at the time the offense was committed; and

"(C) order that all records related to a conviction or adjudication of juvenile delinquency that has been expunged or a sentence or disposition of juvenile delinquency that has been vacated under this Act be sealed and only be made available by further order of the court.

"(d) Factors And Information To Be Considered In Determining Whether To Modify A Term Of Imprisonment.—

"(1) IN GENERAL.—The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a)—

"(A) may consider the factors described in section 3553(a), including the nature of the offense and the history and characteristics of the defendant; and

"(B) shall consider—

"(i) the age of the defendant at the time of the offense;

"(ii) the age of the defendant at the time of the sentence modification petition and relevant data regarding the decline in criminality as the age of defendants increase;

"(iii) any presentation of argument and evidence by counsel for the defendant;

"(iv) a report and recommendation of the Bureau of Prisons, including information on whether the defendant has substantially complied with the rules of each institution in which the defendant has been confined and whether the defendant has completed any educational, vocational, or other prison program, where available;

"(v) any report and recommendation of the United States attorney for any district in which an offense for which the defendant is imprisoned was prosecuted;

"(vi) whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

"(vii) any statement, which may be presented orally or otherwise, by any victim of an offense for which the defendant is imprisoned or by a family member of the victim if the victim is deceased;

"(viii) any report from a physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional;

"(ix) the family and community circumstances of the defendant, including any history of abuse, trauma, or involvement in the child welfare system, and the potential benefits to children and family members of reunification with the defendant;

"(x) the role of the defendant in the offense and whether, and to what extent, an adult was involved in the offense if the defendant was a juvenile at the time of the offense;

"(xi) the diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, if the defendant was a juvenile at the time of the offense; and

"(xii) any other information the court determines relevant to the decision of the court.

"(2) REBUTTABLE PRESUMPTION.—In the case of a defendant who is 50 years of age or older on the date on which the defendant files an application for a sentence reduction under subsection (a), there shall be a rebuttable presumption that the defendant shall be released.

"(e) Limitation On Applications Pursuant To This Section.—

"(1) SECOND APPLICATION.—Not earlier than 5 years after the date on which an order denying release on an initial application under this section becomes final, a court shall entertain a second application by the same defendant under this section.

"(2) THIRD APPLICATION.—Not earlier than 2 years after the date on which an order entered by a court on a second application under paragraph (1) becomes final, a court shall entertain a third application by the same defendant under this section.

"(3) FINAL APPLICATION.—A court shall entertain a final application if the defendant—

"(A) is 50 years of age or older; and

"(B) has exhausted the sentencing modification process.

"(f) Procedures.—

"(1) NOTICE.—Not later than 30 days after the date on which the 10th year of imprisonment begins for a defendant sentenced to more than 10 years of imprisonment for an offense, the Bureau of Prisons shall provide written notice of this section to—

"(A) the defendant; and

"(B) the sentencing court, the United States attorney, and the Federal Public Defender or Executive Director of the Community Defender Organization for the judicial district in which the sentence described in this paragraph was imposed.

"(2) APPLICATION.—

"(A) IN GENERAL.—An application for a sentence reduction under this section shall be filed in the judicial district in which the sentence was imposed as a motion to reduce the sentence of the defendant pursuant to this section and may include affidavits or other written material.

"(B) REQUIREMENT.—A motion to reduce a sentence under this section shall be filed with the sentencing court and a copy shall be served on the United States attorney for the judicial district in which the sentence was imposed.

"(3) EXPANDING THE RECORD; HEARING.—

"(A) EXPANDING THE RECORD.—After the filing of a motion to reduce a sentence under this section, the court may direct the parties to expand the record by submitting additional written materials relating to the motion.

"(B) HEARING.—

"(i) IN GENERAL.—The court shall, upon request of the defendant or the Government, conduct a hearing on the motion, at which the defendant and counsel for the defendant shall be given the opportunity to be heard.

"(ii) EVIDENCE.—In a hearing under this section, the court shall allow parties to present evidence.

"(iii) DEFENDANT'S PRESENCE.—At a hearing under this section, the defendant shall be present unless the defendant waives the right to be present. The requirement under this clause may be satisfied by the defendant appearing by video teleconference.

"(iv) COUNSEL.—A defendant who is unable to afford counsel is entitled to have counsel appointed, at no cost to the defendant, to represent the defendant for the application and proceedings under this section, including any appeal, unless the defendant expressly waives the right to counsel after being fully advised of their rights by the court.

"(v) FINDINGS.—The court shall state in open court, and file in writing, the reasons for granting or denying a motion under this section.

"(C) APPEAL.—The Government or the defendant may file a notice of appeal in the district court for review of a final order under this section. The time limit

for filing such appeal shall be governed by rule 4(a) of the Federal Rules of Appellate Procedure.

"(4) CRIME VICTIMS RIGHTS.—Upon receiving an application under paragraph (2), the United States attorney shall provide any notifications required under section 3771.

"(g) Annual Report.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and once every year thereafter, the United States Sentencing Commission shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on requests for sentence reductions under this section.

"(2) CONTENTS.—Each report required to be published under paragraph (1) shall include, for the 1-year period preceding the report—

"(A) the number of—

"(i) incarcerated individuals who were granted a sentence reduction under this section; and

"(ii) incarcerated individuals who were denied a sentence reduction under this section;

"(B) the number of incarcerated individuals released from prison under this section;

"(C) the demographic characteristics, including race and gender, of—

"(i) the incarcerated individuals who applied for a sentenced reduction under this section;

"(ii) the incarcerated individuals who were granted a sentence reduction under this section; and

"(iii) the incarcerated individuals who were released under this section;

"(D) the location, categorized by Federal circuit and State, of—

"(i) the incarcerated individuals who applied for a reduction under this section;

"(ii) the incarcerated individuals who were granted a reduction under this section; and

"(iii) the incarcerated individuals who were released under this section;

"(E) the average sentence reduction granted under this section;

"(F) the number of incarcerated individuals 50 years of age or older who applied for a sentence reduction under this section;

"(G) the number of incarcerated individuals who are 50 years of age or older who were granted a sentence reduction under this section; and

"(H) the number of incarcerated individuals 50 years of age or older who were released from prison under this section.

"(3) ATTORNEY GENERAL COOPERATION.—The Attorney General shall—

"(A) assist and provide information to the United States Sentencing Commission in the performance of the duties of the Commission under this subsection; and

"(B) promptly respond to requests from the Commission.".

(b) Table Of Sections.—The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3626 the following:

"3627. Modification of certain terms of imprisonment.".

(c) Technical And Conforming Amendment.—Section 3582(c) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the court may reduce a term of imprisonment in accordance with section 3627.".

(d) Section 3771(a)(4) of title 18, United States Code, is amended by adding "sentencing review," after "sentencing".

(e) Applicability.—The amendments made by this section shall apply to any conviction entered before, on, or after the date of enactment of this Act.

SEC. 253. REPEAL OF THE PRISON LITIGATION REFORM ACT.

(a) Chapter 1997e of title 42, United States Code, is repealed.

SEC. 254. REINSTATEMENT OF FEDERAL PELL GRANT ELIGIBILITY.

(a) Section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)) is amended—

(1) by striking paragraph (6);

(2) by redesignating paragraph (7) as paragraph (6); and

(3) in paragraph (2)(A)(ii), by striking "(7)(B)" and inserting "(6)(B)".

SEC. 255. REPEAL OF INCARCERATION INCENTIVE GRANTS.

(a) Sections 12101-12113 of title 34, United States Code, are repealed.

SEC. 256. REPEAL OF MANDATORY MINIMUMS.

(a) Clause 1324(a)(2)(b)(iii) of title 8, United States Code, is amended by striking "less than 3 nor" and "less than 5 nor".

(b) Paragraph 1326(b)(3) of title 8, United States Code, is amended by inserting "not more than" after "imprisoned for a period of".

(c) Section 924 of title 18, United States Code, is amended by striking subsections (c) and (e).

(d) Section 929 of title 18, United States Code, is amended-

(1) in paragraph (a)(1) by

(A) striking "or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device)"; and

(B) by striking all after "in that firearm," and inserting "may, in addition to the punishment provided for for the commission of such crime of violence be sentenced to a term of imprisonment."; and

(2) repealing section (a)(2).

(e) Section 1028A of title 18, United States Code, is amended-

(1) in paragraph (a)(1) by

(i) striking "shall" and inserting "may"; and

(ii) inserting "not more than" after "a term of imprisonment"; and

(2) in paragraph (a)(2) by

(i) striking "shall" and inserting "may"; and

(ii) inserting "not more than" after "a term of imprisonment".

(f) Subsection 33(b) of title 18, United States Code, is amended by striking all after "shall be fined" and inserting "and subject to imprisonment for any term of years or to life imprisonment,".

(g) Section 844 of title 18, United States Code, is amended-

(1) in paragraph (f)(1) by striking "not less than five years and";

(2) in paragraph (f)(2) by striking "not less than seven years and";

(3) in paragraph (f)(3) by striking "shall be subject to the death penalty, or imprisoned for not less than 20 years or for life," and inserting "shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment,";

(4) in paragraph (h)(2), striking all after "dangerous weapon or device" and inserting "may be sentenced to imprisonment for not more than 10 years. In the case of a second or subsequent conviction under this subsection, such person may be sentenced to imprisonment for not more than 20 years."; and

(5) in subsection (i) by striking "not less than 5 years and" and "not less than 7 years and".

(h) Subsection 1245(b) of title 15, United States Code, is amended by striking "not less than five years and".

(i) Section 46502 of title 49, United States Code, is amended-

(1) in subparagraph (a)(2)(A) by replacing "imprisoned for at least 20 years" with "subject to imprisonment for any term of years";

(2) in subparagraph (a)(2)(B) by replacing "put to death or imprisoned for life" with "subject to imprisonment for any term of years, or to the death penalty or to life imprisonment"; and

(3) in subparagraph (b)(1)(B) by replacing "put to death or imprisoned for life" with "subject to imprisonment for any term of years, or to the death penalty or to life imprisonment".

(j) Subsection 2272(b) of title 42, United States Code, is amended-

(1) by striking "not less than 25 years" and inserting "for any term of years";

(2) by striking "not less than 30 years" and inserting "for any term of years"; and

(3) by striking all after "person shall be fined not more than $2,000,000" and inserting "and subject to imprisonment for any term of years or to life imprisonment.".

(k) Subsection 1111(b) of title 18, United States Code, is amended by striking "by imprisonment for life" and inserting "imprisoned for any term of years or for life".

(l) Subsection 1118(a) of title 18, United States Code, is amended by inserting "imprisonment for any terms of years or by" after "death or by".

(m) Subsection 1958(a) of title 18, United States Code, is amended by inserting "or imprisonment for any terms of years or by" after "punished by death".

(n) Section 3559 of title 18, United States Code, is amended-

(1) in paragraph (d)(1) by striking from "unless" through "for life" and inserting "subject to imprisonment for any term of years, or to the death penalty or to life imprisonment"; and

(2) repealing subparagraph (f).

(o) Section 192 of title 2, United States Code, is amended by striking "less than one month nor".

(p) Section 390 of title 2, United States Code, is amended by striking "less than one month nor".

(q) Section 13a of title 7, United States Code, is amended by striking "less than six months nor".

(r) Subsection 15b(k) of title 7, United States Code, is amended by striking "less than 30 days nor".

(s) Paragraph 195(3) of title 7, United States Code, is amended by striking "less than six months nor".

(t) Paragraph 2024(b)(1) of title 7, United States Code, is amended by striking "less than six months nor".

(u) Subsection 2024(c) of title 7, United States Code, is amended by striking "less than one year nor".

(v) Paragraph 1201(g)(1) of title 18, United States Code, is amended by replacing "not less than 20 years" with "any terms of years which may be life".

(w) Subsection 1203(a) of title 18, United States Code, is amended by replacing "shall be punished by death" with "may be punished by death".

(x) Subsection 225(a) of title 18, United States Code, is amended by replacing "a term of not less than 10 years and which may be life" with "any term of years or for life".

(y) Subsection 2113(e) of title 18, United States Code, is amended by replacing "a term not less than ten years" with "any term".

(z) Paragraph 1389(a)(3) of title 18, United States Code, is amended by striking "less than 6 months nor".

(aa) Section 1917 of title 18, United States Code, is amended by striking "less than ten days nor".

(bb) Paragraph 2261(b)(6) of title 18, United States Code, is amended by striking all after "imprisonment" and inserting "for not more than five years.".

(cc) Section 283 of title 19, United States Code, is amended by striking "not less than three months and".

(dd) Section 212 of title 21, United States Code, is amended by striking " not less than one month and".

(ee) Section 410 of title 33, United States Code, is amended by striking "less than thirty days nor".

(ff) Section 411 of title 33, United States Code, is amended by striking "less than thirty days nor".

(gg) Subsection 58109(a) of title 46, United States Code, is amended by striking "at least one year but" and ", or both"

(hh) Section 13 of title 47, United States Code, is amended by replacing "not less than six months" with "no more than one year"

(ii) Section 2260A is amended by inserting "not more than" after "imprisonment of"

(jj) Subsection 2422(b) is amended by striking all after "imprisoned not" and inserting "subject to imprisonment for any term of years or to life imprisonment".

(kk) Section 1122 of title 18, United States Code, is amended by striking "less than 1 year nor".

(ll) Subsection 2257(i) is amended by striking "but not less than 2 years".

(mm) Section 4221 of title 22, United States Code, is amended by striking "nor less than one year,";

(nn) Section 622 of title 21, United States Code, is amended by striking "less than one year nor";

(oo) Section 447 of title 33, United States Code, is amended by striking "less than six months nor";

(pp) Section 220(e) of title 47, United States Code, is amended by striking "less than one year nor";

(qq) Section 617 of title 12, United States Code, is amended by striking "not less than one year and";

(rr) Section 630 of title 12, United States Code, is amended by striking "less than two years nor";

(ss) Section 8 of title 15, United States Code, is amended by striking "less than three months nor";

(tt) Section 1651 of title 18, United States Code, is amended by replacing "imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment.".

(uu) Section 1652 of title 18, United States Code, is amended by replacing "imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment.".

(vv) Section 1653 of title 18, United States Code, is amended by replacing "imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment.".

(ww) Section 1655 of title 18, United States Code, is amended by replacing "imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment.".

(xx) Subsection 1658(b) of title 18, United States Code, is amended by replacing"Shall be imprisoned not less than ten years and imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment".

(yy) Section 1661 of title 18, United States Code, is amended by replacing "imprisoned for life" with "subject to imprisonment for any term of years or to life imprisonment.".

(zz) Subsection 2251(e) of title 18, United States Code, is amended-

(1) by striking "not less than 25 years nor"

(2) by replacing "imprisoned not less than 35 years nor more than life" with "subject to imprisonment for any term of years or to life imprisonment".

(3) by replacing "shall be punished by death or imprisoned for not less than 30 years or for life" with "subject to imprisonment for any term of years, or to the death penalty or to life imprisonment".

(aaa) Subsection 2252(b) is amended-

(1) in paragraph (1) by striking "less than 15 years nor"; and

(2) in paragraph (2) by striking "less than 10 years nor".

(bbb) Subsection 2252A(b) is amended-

(1) in paragraph (1) by striking "less than 15 years nor"; and

(2) in paragraph (2) by striking "less than 10 years nor".

(ccc) Paragraph 3559(c)(1) of title 18, United States Code, is repealed.

(ddd) Paragraph 229A(a)(2) of title 18, United States Code, is amended by striking all after "the result" and inserting "shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment,".

PART I - RE-ESTABLISHING FEDERAL PAROLE

SEC. 261. RE-ESTABLISHING OF FEDERAL PAROLE.

(a) Part III of title 18, United States Code, is amended by inserting before chapter 313 the following:

"CHAPTER 312—PAROLE

"Sec. 4201. Definitions

"As used in this chapter—

"(1) COMMISSION.—The term `Commission' means the United States Parole Commission;

"(2) COMMISSIONER.—The term `Commissioner' means any member of the United States Parole Commission;

"(3) DIRECTOR.—The term `Director' means the Director of the Bureau of Prisons;

"(4) ELIGIBLE PRISONER.—The term `eligible prisoner' means any Federal prisoner who is eligible for parole pursuant to this title or any other law, including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

"(5) PAROLEE.—The term `parolee' means any eligible prisoner who has been released on parole or deemed as if released on parole under section 4164 or section 4205(f); and

"(6) RULES.—The term `rules' means rules made by the Commission under section 4203.

"Sec. 4202. Parole Commission created

"(a) Generally.—There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission which shall be comprised of nine members appointed by the President, by and with the advice and consent of the Senate. The President shall designate from among the Commissioners one to serve as Chairman.

"(b) Term.—The term of office of a Commissioner shall be six years, except that the term of a person appointed as a Commissioner to fill a vacancy shall expire six years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office of a Commissioner, the Commissioner shall continue to act until a successor has been appointed and qualified, except that no Commissioner may serve in excess of twelve years.

"(c) Compensation.—Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

"Sec. 4203. Powers and duties of the Commission

"(a) Administrative Powers.—The Commission shall meet at least quarterly, and by majority vote shall—

"(1) make rules establishing guidelines for the powers enumerated in subsection (b) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

"(2) create such regions as are necessary to carry out this chapter; and

"(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

"(b) Substantive Powers.—The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to—

"(1) grant or deny an application or recommendation to parole any eligible prisoner;

"(2) impose reasonable conditions on an order granting parole;

"(3) modify or revoke an order paroling any eligible prisoner; and

"(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission deems necessary for maintaining proper supervision of and assistance to such parolees; and so as to assure that no probation officers, individuals, organizations, or agencies shall bear excessive caseloads.

"(c) Delegation.—The Commission, by majority vote, and pursuant to rules and regulations—

"(1) may delegate to any Commissioner or commissioners powers enumerated in subsection (b) of this section;

"(2) may delegate to administrative law judges any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpoenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b) of this section, except that any such findings or recommendations shall be based upon the concurrence of not less than two hearing examiners;

"(3) may delegate authority to conduct hearings held pursuant to section 4214 to any officer or employee of the executive or judicial branch of Federal or State government; and

"(4) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision so reviewed must be reaffirmed, modified or reversed within thirty days of the date the decision is rendered, and, in case of such review, the individual to whom the decision applies shall be informed in writing of the Commission's actions with respect thereto and the reasons for such actions.

"(d) Quorum.—Except as otherwise provided by law, any action taken by the Commission pursuant to subsection (a) of this section shall be taken by a majority vote of all individuals currently holding office as members of the Commission which shall maintain and make available for public inspection a record of the final vote of each member on statements of policy and interpretations adopted by it. In so acting, each Commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have one vote.

"(e) Cooperation With States.—

"(1) Generally.—The Commission shall, upon the request of the head of any law enforcement agency of a State or of a unit of local government in a State, make available as expeditiously as possible to such agency, with respect to individuals who are under the jurisdiction of the Commission, who have been convicted of felony offenses against the United States, and who reside, are employed, or are supervised in the geographical area in which such agency has jurisdiction, the following information maintained by the Commission (to the extent that the Commission maintains such information)—

"(A) the names of such individuals;

"(B) the addresses of such individuals;

"(C) the dates of birth of such individuals;

"(D) the Federal Bureau of Investigation numbers assigned to such individuals;

"(E) photographs and fingerprints of such individuals; and

"(F) the nature of the offenses against the United States of which each such individual has been convicted and the factual circumstances relating to such offense.

"(2) Nondissemination requirement.—Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.

"Sec. 4204. Powers and duties of the Chairman

"(a) Generally.—The Chairman shall—

"(1) convene and preside at meetings of the Commission under section 4203 and such additional meetings of the Commission as the Chairman may call or as may be requested in writing by at least three Commissioners;

"(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

"(A) the appointment of any administrative law judge shall be subject to approval of the Commission within the first year of judge's employment; and

"(B) regional Commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including grade 11 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) assign duties among officers and employees of the Commission, including Commissioners, so as to balance the workload and provide for orderly administration;

"(4) direct the preparation of requests for appropriations for the Commission, and the use of funds made available to the Commission;

"(5) designate not fewer than three Commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship), and designate, for each such region established under section 4203, one Commissioner to serve as regional Commissioner in each such region, but in each such designation the Chairman shall consider years of service, personal preference and fitness, and no such designation shall take effect unless concurred in by the President, or his designee;

"(6) serve as spokesman for the Commission and report annually to Congress on the activities of the Commission; and

"(7) exercise such other powers and duties and perform such other functions as may be necessary to carry out the purposes of this chapter or as may be otherwise provided by law.

"(b) Administrative Powers.—The Chairman shall have the power to—

"(1) without regard to section 3324(a) and (b) of title 31, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(2) accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, United States Code;

"(3) procure for the Commission temporary and intermittent services under section 3109(b) of title 5, United States Code;

"(4) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process;

"(5) carry out programs of research concerning the parole process to develop classification systems which describe types of offenders, and to develop theories and practices which can be applied to the different types of offenders;

"(6) publish data concerning the parole process;

"(7) devise and conduct, in various geographical locations, seminars, workshops and training programs providing continuing studies and instruction for personnel of

Federal, State and local agencies and private and public organizations working with parolees and connected with the parole process; and

"(8) use the services, equipment, personnel, information, facilities, and instrumentalities with or without reimbursement therefor of other Federal, State, local, and private agencies with their consent.

"(c) Policies to Be Followed.—In carrying out his functions under this section, the Chairman shall be governed by the national parole policies promulgated by the Commission.

"Sec. 4205. Time of eligibility for release on parole

"(a) Generally.—Whenever confined and serving a definite term or terms of one year or more, a prisoner shall be eligible for release on parole after serving:

"(1) one-third of such term or terms, or

"(2) after serving ten years of a life sentence, or of a sentence of over 25 years, notwithstanding any other statute to the contrary, or

"(3) would be eligible under subparagraph (1) or (2) under a sentence modification pursuant to section 3627 of title 18, United States Code.

"A prisoner convicted under the law of the District of Columbia shall be subject to the guidelines used by the former District of Columbia board of parole.

"(b) Courts' Power at Time of Sentencing.—Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may—

"(1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than but shall not be more than ten years; or

"(2) fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may be released on parole at such time as the Commission may determine.

"(c) Information for Court.—

"(1) Commitment for study.—If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the

maximum sentence of imprisonment prescribed by law, for a study as described in subsection (d).

"(2) Report to court.—The results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within three months unless the court grants time, not to exceed an additional three months, for further study.

"(3) Court order.—After receiving such reports and recommendations, the court may in its discretion—

"(A) place the offender on probation as authorized by section 3561; or,

"(B) modify the sentence pursuant to section 3627 of title 18, United States Code; or

"(C) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law.

"(4) Commencement of term of sentence.—The term of the sentence shall run from the date of original commitment under this section.

"(d) Study of Prisoner Sentenced to Imprisonment.—Upon commitment of a prisoner sentenced to imprisonment under subsection (a) or (b), the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include data regarding the prisoner's previous delinquency or criminal convictions, pertinent circumstances of the prisoner's social background and capabilities, the prisoner's mental and physical health, and such other factors the Director considers pertinent. The Commission may make such other investigation as it may deem necessary.

"(e) Duty of Probation Officers.—Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendation with respect to any matter within the jurisdiction of the Commission.

"(f) Short Prison Terms.—Any prisoner sentenced to imprisonment for a term or terms of not less than six months but not more than one year shall be released at the expiration of such sentence less good time deductions provided by law, unless the court which imposed sentence, shall, at the time of sentencing, provide for the prisoner's release as if on parole after service of one-third of such term or terms notwithstanding section 4164. This

subsection does not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody.

"(g) Reduction in Sentence.—At any time upon motion of the Bureau of Prisons, the court may reduce any minimum term to the time the defendant has served, if notice of such motion has been provided pursuant to section 3771(a)(2) of title 18, United States Code. The court shall have jurisdiction to act upon the application and no hearing shall be required.

"(h) The Bureau of Prisons shall accept nominations for such motions from any employee or agent who is in contact with the defendant on a regular basis, and shall promote this subsection within its jurisdiction.

"Sec. 4206. Parole determination criteria

"(a) Generally.—An eligible prisoner shall be granted parole, subject to subsections (b) and (c), and pursuant to guidelines issued by the Commission, if the eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines that release would not—

"(1) depreciate the seriousness of his offense or promote disrespect for the law; or

"(2) jeopardize the public welfare;, such prisoner shall be released.

"(b) Notice to Prisoner.—The Commission shall furnish the eligible prisoner with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the parole determination proceeding. If parole is denied such notice shall state with particularity the reasons for such denial.

"(c) Good Cause Exception.—The Commission may grant or deny release on parole notwithstanding the guidelines referred to in subsection (a) of this section if it determines there is good cause for so doing, if the prisoner is furnished written notice stating with particularity the reasons for its determination, including in detail the information relied upon.

"(d) Release After 2/3 of Sentence.—Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving 30 years of each consecutive term or terms of more than 45 years including any life term, whichever is earlier, but the Commission shall not release such prisoner if it determines that the prisoner has seriously or frequently violated institution

rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.

"Sec. 4207. Information considered

(a) "In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant—

"(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

"(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

"(3) presentence investigation reports;

"(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge;

"(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim;

"(6) reports of physical, mental, or psychiatric examination of the offender;

"(7) release plans submitted by the prisoner and correctional staff; and

"(8) such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available.

"Sec. 4208. Parole determination proceeding; time

"(a) General Rule.—In making a determination under this chapter (relating to parole) the Commission shall conduct a parole determination proceeding unless it determines on the basis of the prisoner's record that the prisoner will be released on parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole under subsections (a) and (b)(1) of section 4205 shall be held not later than 60 days before the date of such eligibility for parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsection (b)(2) of section 4205 or released on parole and whose parole has been revoked shall be held not later than 90 days following such prisoner's imprisonment or reimprisonment in a Federal institution, as the case may be. An eligible prisoner may knowingly and intelligently waive any proceeding.

"(b) Preparation.—(1) At least 60 days before any parole determination proceeding, the prisoner shall be provided with—

"(A) written notice of the time and place of the proceeding; and

"(B) reasonable access to a report or other document to be used by the Commission in making its determination, including the parole analyst summary.

"(2) A prisoner may waive such notice, but if notice is not waived the proceeding shall be held during the next regularly scheduled proceedings by the Commission at the institution in which the prisoner is confined.

"(c) Exceptions to Disclosure.—(1) Subsection (b)(1)(B) does not apply to—

"(A) diagnostic opinions which, if made known to the eligible prisoner, could lead to a serious disruption of his institutional program;

"(B) any document which reveals sources of information obtained upon a promise of confidentiality; or

"(C) any other information which, if disclosed, might result in harm, physical or otherwise, to any person.

"(2) If any document is deemed by either the Commission, the Bureau of Prisons, or any other agency to fall within the exclusionary provisions of paragraph (1), then it shall become the duty of the Commission, the Bureau, or such other agency, as the case may be, to summarize the basic contents of the material withheld, bearing in mind the need for confidentiality or the impact on the inmate, or both, and furnish such summary to the inmate.

"(d) Consultation.—(1) During the period before the parole determination proceeding as provided in subsection (b), a prisoner may consult, as provided by the director, with a representative as referred to in subparagraph (2) of this subsection, and by mail or otherwise with any person concerning such proceeding.

"(2) The prisoner shall, if he chooses, be represented at the parole determination proceeding by a representative who qualifies under rules and regulations promulgated by the Commission. Such rules shall not exclude attorneys as a class.

"(e) Personal Appearance of Prisoner.—The prisoner shall be allowed to appear and testify on his own behalf at the parole determination proceeding, and may be accompanied by a legal spouse if the spouse is approved for visitation at the facility in which the prisoner is housed.

"(f) Record.—A full and complete audio and video record of every proceeding shall be retained by the Commission. Upon request, the Commission shall make available to any eligible prisoner such record as the Commission may retain of the proceeding.

"(g) Personal Conference.—If parole is denied, a personal conference to explain the reasons for such denial shall be held, if feasible, between the prisoner and a representative of the Commission at the conclusion of the proceeding. When feasible, the conference shall include advice to the prisoner as to what steps may be taken to enhance his chance of being released at a subsequent proceeding.

"(h) Frequency of Parole Determination Proceedings.—In any case in which release on parole is not granted, subsequent parole determination proceedings shall be held not less frequently than:

"(1) 12 months in the case of a prisoner with a term or terms of more than one year but less than ten years; and

"(2) 18 months in the case of a prisoner with a term or terms of ten years or longer.

"Sec. 4209. Conditions of parole

"(a) Mandatory Conditions.—In every case, the Commission shall impose as conditions of parole that the parolee not commit another Federal, State, or local crime, and, if a fine was imposed, that the parolee make a diligent effort to pay the fine in accordance with the judgment. In every case, the Commission shall impose as a condition of parole for a person described in section 4042(c)(4), that the parolee report the address where the parolee will reside and any subsequent change of residence to the probation officer responsible for supervision, and that the parolee register in any State where the parolee resides, is employed, carries on a vocation, or is a student (as such terms are defined under section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994).

"(b) Other Conditions.—The Commission may impose or modify other conditions of parole to the extent that such conditions are reasonably related to—

"(1) the nature and circumstances of the offense; and

"(2) the history and characteristics of the parolee;

and may provide for such supervision and other limitations as are reasonable to protect the public welfare.

"(c) Specificity of Conditions.—The conditions of parole should be sufficiently specific to serve as a guide to supervision and conduct, and upon release on parole the parolee shall

be given a certificate setting forth the conditions of his parole. An effort shall be made to make certain that the parolee understands the conditions of his parole.

"(d) Additional Conditions.—(1) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

"(A) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

"(B) a parolee to remain at his place of residence during nonworking hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration.

"(2) A parolee residing in a residential community treatment center pursuant to paragraph (1)(A) may be required to pay such costs incident to such residence as the Commission deems appropriate.

"(e) Modification.—(1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a United States probation officer supervising a parolee, if the parolee receives notice of such action and has ten days after receipt of such notice to express views on the proposed modification. Following such ten-day period, the Commission shall have 21 days, exclusive of holidays, to act upon such motion or application. Notwithstanding any other provision of this paragraph, the Commission may modify conditions of parole, without regard to such ten-day period, on any such motion if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public.

"(2) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

"(3) The provisions of this subsection shall not apply to modifications of parole conditions pursuant to a revocation proceeding under section 4214.

"Sec. 4210. Jurisdiction of Commission

"(a) Custody.—A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term of terms for which such parolee was sentenced.

"(b) Termination.—Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that—

"(1) such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

"(2) in the case of a parolee who has been convicted of any criminal offense committed subsequent to his release on parole, and such offense is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214(b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

"(c) Extension.—In the case of any parolee found to have intentionally refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof, the jurisdiction of the Commission may, by judicial order, be extended for the period during which the parolee so refused or failed to respond.

"(d) Concurrence of Running of Term.—The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

"(e) Certificate of Discharge.—Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

"Sec. 4211. Early termination of parole

"(a) In General.—Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 4210.

"(b) Review.—(1) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

"(2) The Commission shall establish early termination guidelines and there shall be a presumption that the parolee shall be terminated at the designated time unless detailed written reasons are offered by the Commission that prove the parolee would be a danger to the public Safety.

"(c) Presumptive Termination.—(1) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in section 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law.

"(2) If supervision is not terminated under subparagraph (1) of this subsection the parolee may request a hearing annually thereafter, and a hearing, with procedures as provided in subparagraph (1) of this subsection shall be conducted with respect to such termination of supervision not less frequently than biennially.

"(3) In calculating the five-year period referred to in subparagraph (1), there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

"Sec. 4212. Aliens

"When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such prisoner on condition that such person be deported and remain outside the United States. Such prisoner when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation, unless such prisoner requests asylum. The alien prisoner shall remain incarcerated while the asylum request is processed.

"Sec. 4213. Summons to appear or warrant for retaking of parolee

"(a) In General.—If any parolee is alleged to have violated his parole, the Commission may—

"(1) summon such parolee to appear at a hearing conducted pursuant to section 4213; or

"(2) issue a warrant and retake the parolee as provided in this section.

"(b) Issuance.—Any summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is deemed necessary. Imprisonment in an institution shall not be deemed grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

"(c) Contents.—Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of—

"(1) the conditions of parole he is alleged to have violated as provided under section 4209;

"(2) the parolee's rights under this chapter; and

"(3) the possible action which may be taken by the Commission.

"(d) Execution of Warrant.—Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant, consistent with standards set forth in the Justice For Breonna Taylor Act, by taking such parolee and returning the parolee to the custody of the regional commissioner, or to the custody of the Attorney General, if the Commission shall so direct.

"Sec. 4214. Revocation of parole

"(a) Rights of Parolee.

"(1) Except as provided in subsections (b) and (c), any alleged parole violator summoned or retaken under section 4213 shall be accorded the opportunity to have—

"(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time; except that after a finding of probable cause the Commission may restore any parolee to parole supervision if—

"(i) continuation of revocation proceedings is not warranted; or

"(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

"(iii) the parolee is not likely to fail to appear for further proceedings; and

"(iv) the parolee does not constitute a danger to himself or others; and

"(B) upon a finding of probable cause under subparagraph (1)(A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within 60 days of such determination of probable cause, except that a revocation hearing may be held at the same time and place set for the preliminary hearing.

"(2) Hearings held pursuant to subparagraph (1) shall be conducted by the Commission in accordance with the following procedures:

"(A) Notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing.

"(B) Opportunity for the parolee to be represented by an attorney (retained by the parolee, or if he is financially unable to retain counsel, counsel shall be provided pursuant to section 3006A) or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation.

"(C) Opportunity for the parolee to appear and testify, and present witnesses and relevant evidence.

"(D) Opportunity for the parolee to be apprised of the evidence against the parolee and, if the parolee so requests, to confront and cross-examine adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

"(3) For the purposes of subparagraph (1) of this subsection, the Commission may subpoena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpoena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

"(b) Effect of Conviction.—(1) Conviction for any criminal offense committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such an offense and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against the parolee as a detainer. Such detainer shall be reviewed by the Commission within one hundred and eighty days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section to assist him in the preparation of such Application.

"(2) If the Commission determines that additional information is needed to review a detainer, a dispositional hearing may be held at the institution where the parolee is confined. The parolee shall have notice of such hearing, be allowed to appear and

testify on his own behalf, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section.

"(3) Following the disposition review, the Commission may:

"(A) let the detainer stand; or

"(B) withdraw the detainer.

"(c) Hearing.—Any alleged parole violator who is summoned or retaken by warrant under section 4213 who knowingly and intelligently waives the right to a hearing under subsection (a) of this section, or who knowingly and intelligently admits violation at a preliminary hearing held pursuant to subsection (a)(1)(A) of this section, or who is retaken pursuant to subsection (b) of this section, shall receive a revocation hearing within 90 days of the date of retaking. The Commission may conduct such hearing at the institution to which he has been returned, and the alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel or another representative as provided in subsection (a)(2)(B) of this section.

"(d) Actions of the Commission.—Whenever a parolee is summoned or retaken pursuant to section 4213, and the Commission finds pursuant to the procedures of this section and by a preponderance of the evidence that the parolee has violated a condition of his parole the Commission may take any of the following actions:

"(1) Restore the parolee to supervision.

"(2) Reprimand the parolee.

"(3) Modify the parolee's conditions of the parole.

"(4) Refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence.

"(5) Formally revoke parole or release as if on parole pursuant to this title. The Commission may take any such action provided it has taken into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole, and the seriousness thereof, or whether such action is warranted by the frequency or seriousness of the parolee's violation of any other condition or conditions of his parole.

"(e) Written Notice.—The Commission shall furnish the parolee with a written notice of its determination not later than 21 days, excluding holidays, after the date of the revocation hearing. If parole is revoked, a digest shall be prepared by the Commission setting forth

in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

"Sec. 4215. Appeal

"(a) Application.—Whenever an individual disputes the time of eligibility for release under section 4205, parole release is denied under section 4206, parole conditions are imposed or modified under section 4209, parole discharge is denied under section 4211(b) or (c), or parole is modified or revoked under section 4214, the individual to whom any such decision applies may appeal such decision by submitting a written application to the National Appeal (Appeals) Board not later than 60 days following the date on which the decision is rendered.

"(b) Requirement to Act.—The National Appeals Board, upon receipt of the appellant's papers, must act pursuant to rules and regulations within 60 days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and the reasons therefor.

"(c) Attorney General's Request.—The National Appeals Board may review any decision of a regional commissioner upon the written request of the Attorney General filed not later than 30 days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within 60 days of the receipt of the Attorney General's request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

"Sec. 4216. Applicability of Administrative Procedure Act

"(a) Generally.—For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an `agency' as defined in such chapter.

"(b) Special Rule.—For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, does not include the phrase `general statements of policy'.

"(c) Judicial Review.—To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.".

SEC. 262. CLERICAL AMENDMENT.

The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting before the item relating to chapter 313 the following new item:

"312. Parole..... 4201".

SEC. 263. GOOD TIME CREDITS.

Part III of title 18, United States Code, is amended by inserting after chapter 309 the following:

"CHAPTER 310—GOOD TIME CREDITS
"SEC. 4161. Computation generally.
"SEC. 4162. Industrial good time.
"SEC. 4163. Discharge.
"SEC. 4164. Released prisoner as parolee.
"SEC. 4165. Forfeiture for offense.
"SEC. 4166. Restoration of forfeited commutation.

"Sec. 4161. Computation generally

"(a) Each prisoner convicted of an offense against the United States and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment, shall be entitled to a deduction from the term of his sentence beginning with the day on which the sentence commences to run, as follows:

"Five days for each month, if the sentence is not less than six months and not more than one year.

"Six days for each month, if the sentence is more than one year and less than three years.

"Seven days for each month, if the sentence is not less than three years and less than five years.

"Eight days for each month, if the sentence is not less than five years and less than ten years.

"Ten days for each month, if the sentence is ten years or more.

"(b) When two or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the deduction shall be computed.

"Sec. 4162. Industrial good time

"(a) A prisoner may, in the discretion of the Attorney General, be allowed a deduction from his sentence of not to exceed three days for each month of any year or any part thereof.

"(b) In the discretion of the Attorney General such allowance may also be made to a prisoner performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations.

"(c) A prisoner may, in the discretion of the Attorney General, be allowed a deduction from his sentence of up to three additional days for each month or part thereof for superior program achievement. Superior program achievement includes, but is not limited to, satisfactory progress towards degrees from accredited educational institutions or completion certificates from vocational technical or rehabilitative programs and teaching such courses of study. Each inmate shall be permitted to substitute Bureau certified educational programs in place of institutional employment or be allowed to do both. Such extra good time allowances shall be in addition to commutation of time for good conduct under section 4161 and under the same terms and conditions and without regard to length of sentence.

"Sec. 4163. Discharge

"All current and future sentences shall be recalculated by the Director of the Bureau of Prisons based upon the criteria set forth in sections 4161 and 4162(a), (b), and (c), notwithstanding any other statute to the contrary. Except as hereinafter provided a prisoner shall be released at the expiration of his term of sentence less the time deducted for good conduct. A certificate of such deduction shall be entered on the commitment by the warden or keeper. If such release date falls upon a Saturday, a Sunday, or on a Monday which is a legal holiday at the place of confinement, the prisoner may be released at the discretion of the warden or keeper on the preceding Friday. If such release date falls on a holiday which falls other than on Saturday, Sunday, or Monday, the prisoner may be released at the discretion of the warden or keeper on the day preceding the holiday.

"Sec. 4164. Released prisoner as parolee

"A prisoner having served his term or terms less good-time deductions shall, upon release, be deemed as if released on parole until the expiration of the maximum term or terms for which he was sentenced less one hundred and eighty days. This section shall not prevent delivery of a prisoner to the authorities of any State otherwise entitled to his custody.

"Sec. 4165. Forfeiture for offense

"If during the term of imprisonment a prisoner commits any offense or violates the rules of the institution, all or any part of his earned good time may be forfeited.

"Sec. 4166. Restoration of forfeited commutation

"The Attorney General may restore any forfeited or lost good time or such portion thereof as he deems proper upon recommendation of the Director of the Bureau of Prisons.".

SEC. 264. CLERICAL AMENDMENT.

The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting after the item relating to chapter 309 the following new item:

"310. Good time credits..... 4161".

SEC. 265. PAROLE AUTHORITY FOR CERTAIN PERSONS.

The United States Parole Commission created by the amendments made by this Act shall also have jurisdiction over the parole of persons whose parole was governed by the Parole Commission Phase-Out Act of 1996 or section 11231 of Public Law 105-33, and shall exercise parole authority with respect to those persons under the amendments made by this Act.

SEC. 266. RETROSPECTIVE AND PROSPECTIVE APPLICATION.

This Act and the amendments made by this Act apply to prisoners whose convictions occur before, on, or after the date of the enactment of this Act.

TITLE III - ENDING THE ENDLESS WARS

Subtitle A - Reducing America's Global Military Footprint

SEC. 301. SUNSET OF 2001 AUTHORIZATION FOR USE OF MILITARY FORCE.

Effective 240 days after the date of the enactment of this Act, the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) is hereby repealed. Nothing in this section shall be construed to prohibit Congress from passing a new Authorization for Use of Military Force if needed.

SEC. 302. REPEAL OF 2002 AUTHORIZATION FOR USE OF MILITARY FORCE.

The Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 50 U.S.C. 1541 note) is hereby repealed.

SEC. 303. REQUIRING CONGRESSIONAL AUTHORIZATION FOR USE OF FORCE AGAINST IRAN.

(a) (1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available may be obligated or expended for any use of military force in or against Iran unless Congress has—

(A) declared war; or

(B) enacted specific statutory authorization for such use of military force after the date of the enactment of this Act that meets the requirements of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(2) The prohibition under paragraph (1) shall not apply to a use of military force that is consistent with section (2)(c) of the War Powers Resolution.

(b) Nothing in this section may be construed—

(1) to prevent the President from using necessary and appropriate force to defend United States allies and partners if Congress enacts specific statutory authorization for such use of force consistent with the requirements of the War Powers Resolution (50 U.S.C. 1541 et seq.);

(2) to relieve the executive branch of restrictions on the use of force, reporting, or consultation requirements set forth in the War Powers Resolution (50 U.S.C. 1541 et seq.); or

(3) to authorize the use of military force.

SEC. 304. REDUCTION OF MILITARY BUDGET TO 2004 LEVELS.

(a) The amount authorized to be appropriated for fiscal year 2022 is the aggregate amount authorized by the National Defense Authorization Act to be appropriated for fiscal year 2021 minus the amount equal to 10 percent of the aggregate amount.

(b) The amount authorized to be appropriated for fiscal year 2023 is the aggregate amount authorized for the National Defense Authorization Act For Fiscal Year 2022 pursuant to subsection (a) minus the amount equal to 10 percent of the aggregate amount.

(c) The amount authorized to be appropriated for fiscal year 2024 is the aggregate amount authorized by the National Defense Authorization Act For Fiscal Year 2023 pursuant to subsection (b) minus the amount equal to 10 percent of the aggregate amount.

(d) The amount authorized to be appropriated for fiscal year 2025 is the aggregate amount authorized by the National Defense Authorization Act For Fiscal Year 2024 pursuant to subsection (c) minus the amount equal to 10 percent of the aggregate amount.

(e) It shall not be in order in the House of Representatives or the Senate to consider any amendment to the authorizations in this section, unless so determined by a vote of not less than two-thirds of the Members voting, a quorum being present.

SEC. 305. REDUCTION OF NUCLEAR STOCKPILE.

(a) Section 2523 of title 50, United States Code, is amended

(1) in subsection (c) by—

(A) renumbering paragraph (9) as (10); and

(B) inserting after paragraph (8) the following:

"(9) A plan for reducing by the year 2025 the number of warheads in the nuclear weapons stockpile to no more than ½ of the 2020 total.".

(2) in subsection (d) by—

(A) redesignating subparagraphs (N) and (O) as subparagraphs (O) and (P), respectively; and

(B) inserting after subparagraph (M) the following:

"(N) the status, plans, activities, budgets, and schedules for carrying out the warhead reduction plan under section 2523(c)(9) of this title;".

(a)(1) Within one year of enactment of this Act, the Secretary of Defense ("the Secretary") shall hold local referendums for each of the United States' more than 800 foriegn military bases. The question put to the native population shall be substantially, "Do you want the United States military to remain here?"

(2) In holding the referendums,

(A) secret ballots shall be used, in such manner to prevent intimidation, coercion, or reprisals in regards to casting ballots,

(B) ballots shall be printed in the local language or languages;

(C) it shall be publicized for no less than 60 days before voting concludes,

(D) the franchise shall include both men and women of adult age to the fullest extent possible;

(E) the pool of eligible voters shall include:

(i) the residential population within five miles of the base;

(ii) business owners whose establishments are within five miles of the base;

(iii) any local resident who works on the base,

(iii) residents of any larger villages, towns, or cities within five to 15 miles of the base; and

(iv) any other local person or group with ties to the base, as the Secretary sees fit, provided that voters who fit into more than one category of (i), (ii), (iii), (iv), or (v) shall only be permitted one vote; and

(F) the Secretary shall endeavor to demonstrate American democracy in the best possible way.

(3) The Secretary shall seek the cooperation and approval of the local government in holding the referendum.

(b)(1) One year from the enactment of this Act, the Secretary shall develop a base closure plan respecting the preference of the local communities around all bases where the minority of ballots indicate they want the US military to maintain their presence.

(2) Within two years of enactment of this Act, the Secretary shall complete the base closure plan developed in paragraph (1).

(c) The Secretary shall issue reports to the Speaker of the House, Majority Leader of the Senate, and President of the United States providing status updates, including the specific referendum results. Such reports may be made from time to time, but no less than six months apart.

Subtitle B - Improving America's Moral Standing in the World

SEC. 311. SUSPENSION OF ARMS TRANSFERS TO SAUDI ARABIA.

(a) Restriction.—Except as provided in subsection (b), during the period beginning on the date of the enactment of this Act and ending on September 30, 2025, the United States Government—

(1) may not sell, transfer, or authorize licenses for export to the Government of Saudi Arabia any item designated under Category III, IV, VII, or VIII on the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)); and

(2) shall suspend any licenses or other approvals that were issued before the date of the enactment of this Act for the export to the Government of Saudi Arabia of any item designated under Category IV of the United States Munitions List.

(b) Exception.—The prohibition under subsection (a) shall not apply to sales, transfers, or export licenses relating to ground-based missile defense systems.

(c) Waiver.—The President may waive the restriction under subsection (a) for items designated under Categories III, VII, and VIII of the United States Munitions List not earlier than 30 days after—

(1) the Secretary of State, in coordination with the Secretary of Defense, submits a written, unclassified certification to the appropriate congressional committees stating that—

(A) such waiver is in the national security interests of the United States;

(B) the Saudi-led coalition, during the 180-day period immediately preceding the date of such certification, has continuously—

(i) honored a complete cessation of hostilities in the Yemen civil war, including ending all air strikes and all offensive ground operations that are not associated with al Qaeda in the Arabian Peninsula or ISIS;

(ii) fully supported, in statements and actions, the work of United Nations Special Envoy Martin Griffiths to find a political solution to the conflict in Yemen; and

(iii) abstained from any actions to restrict, delay, or interfere with the delivery of cargo to or within Yemen unless—

(I) such action was taken exclusively to carry out inspections based on specific intelligence that a cargo shipment contains weapons prohibited under United Nations Security Council Resolution 2216 (2015); and

(II) the Saudi-led coalition timely submitted any reports required under such Resolution after the conclusion of such action; and

(C) Ansar Allah or associated forces, during the 180-day period immediately preceding the date of such certification—

(i) launched missile or unmanned aerial vehicle strikes into Saudi Arabia or the United Arab Emirates;

(ii) conducted ground incursions into the territory of Saudi Arabia or the United Arab Emirates;

(iii) accepted weapons, weapons components, funding, or military training from the Islamic Republic of Iran;

(iv) attacked vessels in the Red Sea; or

(v) prohibited or otherwise restricted, directly or indirectly, the transport or delivery of humanitarian or commercial shipments to and within Yemen; and

(2) the Comptroller General of the United States, not later than 45 days after the submission of the certification under paragraph (1), submits a written, unclassified report to the appropriate congressional committees assessing the responsiveness, completeness, and accuracy of such certification.

(d) Classified briefing.—If the Secretary of State and the Secretary of Defense determine that Ansar Allah has engaged in any of the actions described in subsection (c)(1)(C), the Secretary of State and the Secretary of Defense shall provide a classified briefing to the appropriate congressional committees not later than 10 days after submitting the certification under subsection (c)(1) to provide details to support such determination.

SEC. 312. RESTRICTING THE USE OF ECONOMIC SANCTIONS AGAINST CIVILIAN POPULATIONS.

(a) Section 8512 of title 22, United States Code, is amended—

(1) by deleting subsection (d);

(2) by deleting paragraphs (b)(1) and (b)(2); and

(3) redesignating paragraph (b)(3) as (b)(1).

(b) Section 7201 of title 22, United States Code, is amended by inserting at the end the following-

"(7) Unilateral economic sanction.-- The term "unilateral economic sanction" mean any prohibition, restriction, or condition on non-specific imports or exports with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to—
"(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

"(B) a mandatory decision of the United Nations Security Council.".

(c) Section 7202 of title 22, United States Code, is amended-

(1) in subsection (a), by inserting ", unilateral economic sanction," after "unilateral agricultural sanction";

(2) in paragraph (1)(B), by inserting-

(A) "current" after "describes the";

(B) "imposing" after "that justify"; and

(3) in subsection (b)--

(A) by striking "October 28, 2000" and inserting "January 30, 2021"; and

(B) by inserting ", unilateral economic sanction," after "unilateral agricultural sanction".

(d) Section 7404 of title 22, United States Code, is amended in the flush text by inserting ", unilateral economic sanction," after "unilateral agricultural sanction".

(e) Sections 7205 and 7207 of title 22, United States Code, are repealed.

(f) Section 7208 of title 22, United State Code, is amended--

(1) by striking the words "Nothing in"; and

(2) by striking the words "alter" through "affect" and inserting the word "nullify".

SEC. 313. PROHIBITING PURCHASES OF LANDMINES AND LETHAL AUTONOMOUS WEAPONS.

(b) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304e the following:

"Sec. 2304f. Contracts: prohibition on certain unethical weapons.

"(a) EXCLUSION.— No contract may be negotiated, initiated, implemented, or completed if the contract includes development or procurement of unethical weapons.

"(b) DEFINITION.— As used in this section, ‘unethical weapons’ mean devices which are intended to kill, maim, or otherwise injure a living being without direct action initiated by an human operator. ‘Unethical weapons’ includes landmines and other lethal autonomous weapons, but do not include missile defense systems.

"(c) PENALTY.— On any violation of this section, the Secretary of Defence shall

"(1) make a donation from the current year's appropriation to The International Campaign to Ban Landmines (ICBL). The donation shall be the greater of $1,000,000 or twice the total costs incurred under the violation.

"(2) provide ICBL with the specifics of the items in violation, including quantity, cost, technical details, and the estimated casualties that would be produced by the unethical weapons.".

SEC. 314. CLOSING GUANTANAMO BAY MILITARY PRISON.

(a) Closure Of Facility.—Notwithstanding any other provision of law, the President shall close the Department of Defense detention facility at Guantanamo Bay, Cuba, not later than 120 days after the date of the enactment of this Act.

(b) Restriction On Use Of Funds.—

(1) RESTRICTION.—Except as provided in paragraph (2), no amounts appropriated or otherwise made available for fiscal year 2021 or fiscal year 2022 may be used for the Guantanamo Bay detention facility or for detention at the Guantanamo Bay detention facility of any foreign national who was detained at such facility on or after September 30, 2020.

(2) EXCEPTIONS.—Amounts appropriated or otherwise made available for fiscal year 2021 or fiscal year 2020 may be used for the following purposes related to the detention of foreign nationals who were detained at the Guantanamo Bay detention facility on any date between September 30, 2020 and the date of enactment:

(A) Transfer to the United States Disciplinary Barracks at Fort Leavenworth, Kansas, for purposes of pretrial detention or detention during a trial or while serving a sentence, of any such person who, not later than 120 days after the date of the enactment of this Act, is charged with an offense under chapter 47A of title 10, United States Code, as added by section 3 of the Military Commissions Act of 2006 (Public Law 109–366), or with a felony offense under title 18, United States Code, or chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

(B) Continued detention at the Guantanamo Bay detention facility for an additional 120-day period, not to continue more than 240 days after the date of the enactment of this Act, upon written certification by the Secretary of Defense to the Chairmen and Ranking Members of the Committees on Armed Services of the Senate and the House of Representatives that

additional time is needed to complete the investigation and preparation of charges, including a detailed factual explanation of the specific reasons why the additional time is needed.

(C) Transfer of any such person to another country, provided that—

(i) the transfer complies with the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951, the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, and Federal law; and

(ii) an individual being so transferred who is asserting a well-founded fear of torture, abuse, or persecution has an opportunity to have the claim heard by the Executive Office for Immigration Review, subject to the same judicial review provided for in section 242(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(4)).

(c) Immigration Status.—The transfer of an individual under subsection (b)(2)(A) shall not be considered an entry into the United States for purposes of immigration status.

(d) Authorization Of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out activities under this Act related to the investigation, prosecution, and defense of cases and claims relating to foreign nationals who were detained at the Guantanamo Bay detention facility on or after September 30, 2020, and the transfer of such persons, including for the reimbursement of costs incurred by local communities.

TITLE IV - 10 YEAR TRUCE ON GUNS AND ABORTION

SEC. 401. CODIFICATION OF THE HYDE AMENDMENT.

(a) Title 1 of the United States Code is amended by adding at the end the following new chapter:

"CHAPTER 4—PROHIBITING FEDERALLY FUNDED ABORTIONS

"SEC. 301. Prohibition on funding for abortions.

"(a) In general.—No funds authorized or appropriated by Federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by Federal law, shall be expended for any abortion.

"(b) Health benefits coverage.—No funds authorized or appropriated by Federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by Federal law, shall be expended for health benefits coverage that includes coverage of abortion.

"SEC. 302. Treatment of abortions related to rape, incest, or preserving the life of the mother.

"The limitations established in sections 301 shall not apply to an abortion—

"(a) if the pregnancy is the result of an act of rape or incest; or

"(b) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed."

Subtitle A - Universal Background Checks Act

SEC. 411. FIREARMS TRANSFERS.

(a) Section 922 of title 18, United States Code, is amended—

(1) by striking subsection (s);

(2) by redesignating subsection (t) as subsection (s); and

(3) by inserting after subsection (s), as redesignated, the following:

"(t) (1) (A) It shall be unlawful for any person who is not a licensed importer, licensed manufacturer, or licensed dealer to transfer a firearm to any other person who is not so licensed, unless a licensed importer, licensed manufacturer, or licensed dealer has first taken possession of the firearm for the purpose of complying with subsection (s).

"(B) Upon taking possession of a firearm under subparagraph (A), a licensee shall comply with all requirements of this chapter as if the licensee were transferring the firearm from the inventory of the licensee to the unlicensed transferee.

"(C) If a transfer of a firearm described in subparagraph (A) will not be completed for any reason after a licensee takes possession of the firearm (including because the transfer of the firearm to, or receipt of the firearm by, the transferee would violate this chapter), the return of the firearm to the transferor by the licensee shall not constitute the transfer of a firearm for purposes of this chapter.

"(2) Paragraph (1) shall not apply to—

"(A) a law enforcement agency or any law enforcement officer, armed private security professional, or member of the armed forces, to the extent the officer, professional, or member is acting within the course and scope of employment and official duties;

"(B) a transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, including step-parents and their step-children, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren, if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law;

"(C) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of another person;

"(D) a temporary transfer that is necessary to prevent imminent death or great bodily harm, including harm to self, family, household members, or others, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm, including the harm of domestic violence, dating partner violence, sexual assault, stalking, and domestic abuse;

"(E) a transfer that is approved by the Attorney General under section 5812 of the Internal Revenue Code of 1986; or

"(F) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law, and the transfer takes place and the transferee's possession of the firearm is exclusively—

"(i) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting;

"(ii) while reasonably necessary for the purposes of hunting, trapping, or fishing, if the transferor—

"(I) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and

"(II) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, or fishing; or

"(iii) while in the presence of the transferor.

"(3) (A) Notwithstanding any other provision of this chapter, the Attorney General may implement this subsection with regulations.

"(B) Regulations promulgated under this paragraph may not include any provision requiring licensees to facilitate transfers in accordance with paragraph (1).

"(C) Regulations promulgated under this paragraph may not include any provision requiring persons not licensed under this chapter to keep records of background checks or firearms transfers.

"(D) Regulations promulgated under this paragraph may not include any provision placing a cap on the fee licensees may charge to facilitate transfers in accordance with paragraph (1).

"(E) Regulations promulgated under this paragraph shall include, in the case of a background check conducted by the national instant criminal background check system in response to a contact from a licensed importer, licensed manufacturer, or licensed dealer, which background check indicates that the receipt of a firearm by a person would violate subsection (g)(5), a requirement that the system notify U.S. Immigration and Customs Enforcement.

"(4) It shall be unlawful for a licensed importer, licensed manufacturer, or licensed dealer to transfer possession of, or title to, a firearm to another person who is not so licensed unless the importer, manufacturer, or dealer has provided such other person with a notice of the prohibition under paragraph (1), and such other person has certified that such other person has been provided with this notice on a form prescribed by the Attorney General.".

SEC. 412. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 922.—Section 922(y)(2) of title 18, United States Code, is amended in the matter preceding subparagraph (A) by striking ", (g)(5)(B), and (s)(3)(B)(v)(II)" and inserting "and (g)(5)(B)".

(b) Consolidated and Further Continuing Appropriations Act, 2012.—Section 511 of title V of division B of the Consolidated and Further Continuing Appropriations Act, 2012 (18 U.S.C. 922 note) is amended by striking "subsection 922(t)" each place it appears and inserting "subsection (s) or (t) of section 922".

SEC. 413. NO FIREARM REGISTRY AUTHORIZED.

(a) Nothing in this Act, or any amendment made by this Act, shall be construed to—

(1) authorize the establishment, directly or indirectly, of a national firearms registry; or

(2) interfere with the authority of a State, under section 927 of title 18, United States Code, to enact a law on the same subject matter as this Act.

Subtitle B - Supermajority Required to Amend This Title

SEC. 421. PROHIBITING INTRODUCTION OF GUN OR ABORTION BANS WITHOUT A SUPERMAJORITY.

It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would meet any of the following conditions, unless so determined by a vote of not less than two-thirds of the Members voting, a quorum being present:

(a) Amend or repeal Chapter 4 of title 1, United States Code, as inserted by Sec. 401 of this Act.

(b) Amend or repeal Section 922 of title 18, United States Code, as inserted or amended by Sec.423 of this Act.

(c) Prohibit the manufacture, sale, or possession of a firearm. "Firearm" means

(1) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(2) the frame or receiver of any such weapon; or

(3) any firearm muffler or firearm silencer, as defined in 18 U.S. Code § 921 (a)(24).

(d) Prohibit or restrict access to abortion.

SEC. 422. SUPERMAJORITY REQUIREMENT REPEALED IN 10 YEARS.

Section 421 of this Act is repealed 10 years after the date of enactment of this Act.

TITLE V - MISCELLANEOUS PROVISIONS

SEC. 501. SEVERABILITY.

If any provision of this Act or an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of this Act and the amendments made by this Act to any other person or circumstance shall not be affected.

SEC. 502. AMENDMENT OF THE REAL ID ACT.

EXEMPTION.—For purposes of boarding a federally regulated commercial aircraft, the credential requirements of section 202 of the REAL ID Act of 2005 (Public Law 109–13; 49 U.S.C. 30301 note) shall only apply to persons required by federal law to show identification as a condition of boarding a federally regulated commercial aircraft.

SEC. 503. EFFECTIVE DATES.

Unless otherwise noted, this Act shall be effective on passage.