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# APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 2006

JULY 12, 2006.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

## REPORT

[to accompany S. 2832]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2832) to reauthorize and improve the program authorized by the Appalachian Regional Development Act of 1965, having considered the same, reports favorably thereon and recommends that the bill do pass.

### GENERAL STATEMENT AND BACKGROUND

The Appalachian Regional Development Act of 1965 (title 40, subtitle IV, United States Code) established the Appalachian Regional Commission (ARC). ARC is a Federal-State partnership that works with the people of Appalachia to create opportunities for self-sustaining economic development and improved quality of life. ARC includes all or portions of 13 States: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia.

ARC's primary function is to support development of Appalachia's economy and critical infrastructure to provide a climate for growth in business and industry that will create jobs. ARC administers a variety of programs to aid in the development and advance-

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ment of the region including a highway system, education and job training, and water and sewer systems.

ARC administers economic development funds through a series of grant programs. The agency generally allocates funds based on the economic distress of a given locality, devoting a significant percentage of its resources to economically distressed communities. By law, at least 50 percent of all non-highway project grant funds must go to distressed counties and areas. In fiscal year 2005, for example, 57 percent of ARC's non-highway funds supported projects that primarily or substantially benefited distressed counties and areas.

Since its creation in 1965, ARC's funding and projects have contributed significantly to improvements in the region. The number of economically distressed counties has been cut by more than half, from 223 distressed counties in 1965 to 77 counties in 2006. The regional poverty rate has been cut by more than half. High school graduation rates have increased by more than 70 percent. The infant mortality rate has been cut by two-thirds, and more than 400 ARC-funded rural health facilities have expanded access to health care across Appalachia. Since 1977, ARC has invested $36.7 million in revolving loan funds that generated $115 million in loans for small businesses and leveraged $8.59 in other investment for each ARC dollar, helping create more than 30,000 jobs.

Unfortunately, roughly one-fifth of ARC's counties remain distressed. Additionally, one-fourth of Appalachia's counties have a poverty rate more than 150 percent of the national average and a majority of the counties have a higher unemployment rate than the national average.

## Objectives of the Legislation

S. 2832 provides for the reauthorization and improvement of the Appalachian Regional Development Act of 1965. The bill strengthens the Act by providing tools to better assist those counties most at-risk of becoming economically distressed and by increasing the authorization level of the Act.

## Section-by-Section Analysis

*Section 1. Short title.*

This section provides that this Act may be cited as the "Appalachian Regional Development Act Amendments of 2006".

*Sec. 2. Limitation on available amounts; maximum commission contribution.*

### Summary

This section amends sections 14321(a), 14502, 14503, 14504, 14505, 14506 and 14507(g) of title 40, United States Code, to provide a maximum grant rate of 70 percent for designated at-risk counties.

### Description

ARC's grant programs include assistance for economic development, demonstration health projects, assistance for proposed lowand middle-income housing projects, a telecommunications and technology initiative, an entrepreneurship initiative, a regional skills partnership, and supplements to Federal grant programs. Currently each of these non-highway programs includes a maximum grant rate of 75 or 80 percent for distressed counties and 50 percent for all other counties. This section provides ARC with a tool to try to prevent those counties most at risk of becoming economically distressed from actually becoming distressed by providing a maximum grant rate for these "at-risk" counties of 70 percent for all of ARC's non-highway grant programs.

*Sec. 3. Distressed, at-risk, and economically strong counties.*

This section amends section 14526(a)(1) of title 40, United States Code, to direct the Commission to designate as "at-risk" those counties that are most at risk of becoming economically distressed.

*Sec. 4. Authorization of appropriations.*

SUMMARY

This section amends section 14703 of title 40, United States Code, to set authorization levels for fiscal years 2007–2011.

DESCRIPTION

The section authorizes $95.2 million in fiscal year 2007; $98.6 million in fiscal year 2008; $102 million in fiscal year 2009; $105.7 million in fiscal year 2010; and $109.4 in fiscal year 2011. These levels include increases in line with projected inflation rates (Historical Tables of the U.S. Government Budget, Table 10.1, "Other Grants").

*Sec. 5. Termination.*

This section amends section 14704 of title 40, United States Code, to extend the date on which the Appalachian Regional Development Act of 1965 (with the exception of the Appalachian development highway system and the definition of the Appalachian region) ceases to be in effect from October 1, 2006, to October 1, 2011.

*Sec. 6. Effective date.*

This section states that the amendments made by this Act take effect on October 1, 2006.

## LEGISLATIVE HISTORY

On May 18, 2006, Senator Voinovich introduced S. 2832, which was co-sponsored by Senators Clinton, Warner, DeWine, Lott, Allen, Burr and Dole. The bill was read twice and referred to the Senate Committee on Environment and Public Works. The committee met on May 23, 2006 to consider the bill. S. 2832 was ordered favorably reported without amendment by voice vote.

## HEARINGS

On April 20, 2006, the Committee on Environment and Public Works conducted a field hearing in Marietta, Ohio, to receive testimony on the impact of the 2002 reauthorization and issues regarding the 2006 reauthorization. The committee received testimony from Ms. Ann Pope, Federal Co-Chair, Appalachian Regional Commission; Mr. T.J. Justice, Director, Governor's Office of Appalachia, Appalachian Regional Commission; Mr. Don Myers, Director, Ohio Mid-Eastern Governments Association; Mr. Gary Little, President, Information Technology Alliance of Appalachian Ohio; Mr. David Matusoff, Principal and Director of Technology Planning, Whiteboard Broadband Solutions; Dr. David Scholl, President, CEO, Diagnostic Hybrid, Inc.; Ms. Angela Stuber, Executive Director, Ohio Community Computing Network; Mr. Steve Grossman, Executive Director, Ohio Water Development Authority; Mr. Jeff Hughes, Director, Environmental Finance Center, University of North Carolina at Chapel Hill, Institute of Government; and Mr. Ken Reed, Director, Vinton County Community and Economic Development, Vinton County Courthouse.

## ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 2832 on May 23, 2006. The bill was ordered favorably reported by voice vote. No roll call votes were taken.

## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 2832 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee finds that S. 2832 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments. The bill contains no new private-sector mandates as defined in UMRA.

## COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

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*S. 2832, Appalachian Regional Development Act Amendments of 2006, As ordered reported by the Senate Committee on Environment and Public Works on May 23, 2006*

*Summary*

S. 2832 would authorize the appropriation of $511 million for the Appalachian Regional Commission over the 2007–2011 period. The commission provides grants to State and local governments to support economic development within the Appalachian region. S. 2832 also would amend limitations on the size of awards to grantees.

CBO estimates that implementing S. 2832 would cost $267 million over the 2007–2011 period and $244 million more after 2011, assuming the appropriation of the authorized amounts. Enacting the bill would not affect direct spending or revenues.

S. 2832 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit local governments in the Appalachian region.

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 2832 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development). For this estimate we assume that the authorized amounts will be provided each year and that spending will follow historical patterns for the Appalachian Regional Commission. CBO estimates that implementing S. 2832 would cost $267 million over the next 5 years.

By Fiscal Year, in Millions of Dollars

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|---|
| SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Spending Under Current Law for the Appalachian Regional Commission. | | | | | | |
| Budget Authority | 65 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 64 | 60 | 47 | 26 | 15 | 7 |
| Proposed Changes. | | | | | | |
| Authorization Level | 0 | 95 | 99 | 102 | 106 | 109 |
| Estimated Outlays | 0 | 10 | 29 | 59 | 77 | 92 |
| Spending Under S. 2832 for the Appalachian Regional Commission. | | | | | | |
| Authorization Level | 65 | 95 | 99 | 102 | 106 | 109 |
| Estimated Outlays | 64 | 70 | 76 | 85 | 92 | 99 |

*Intergovernmental and Provate-Sector Impact*

S. 2832 contains no intergovernmental or private-sector mandates as defined in UMRA. Assuming the appropriation of the authorized amounts, counties in the Appalachian region would receive an additional $500 million over the next several years for a variety of grant programs. In addition, this bill would increase the funding available to certain counties that are at risk of becoming economically distressed. Any costs to those governments would be incurred voluntarily as conditions of receiving Federal assistance. This bill would not affect the budgets of other State, local, or tribal governments.

*Estimate Prepared By*: Federal Costs: Gregory Waring; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Craig Cammarata.

*Estimate Approved By*: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in italic, existing law in which no change is proposed is shown in roman:

# TITLE 40. PUBLIC BUILDINGS, PROPERTY, AND WORKS

## SUBTITLE IV. APPALACHIAN REGIONAL DEVELOPMENT

### CHAPTER 143. APPALACHIAN REGIONAL COMMISSION

SUBCHAPTER II. FINANCIAL ASSISTANCE

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**§14321. GRANTS AND OTHER ASSISTANCE**

(a) AUTHORIZATION TO MAKE GRANTS.—

(1) IN GENERAL.—The Appalachian Regional Commission may make grants—

(A) for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but—

[(i) the amount of a grant shall not exceed 50 percent of administrative expenses or, at the discretion of the Commission, 75 percent of administrative expenses if the grant is to a local development district that has a charter or authority that includes the economic development of a county or part of a county for which a distressed county designation is in effect under section 14526 of this title;]

*(i) the amount of the grant shall not exceed—*

*(I) 50 percent of administrative expenses;*

*(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or*

*(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;*

(ii) grants for administrative expenses shall not be made for a state agency certified as a local development district for a period of more than three years beginning on the date the initial grant is made for the development district; and

(iii) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services;

(B) for assistance to States for a period of not more than two years to strengthen the state development planning process for the Appalachian region and the coordination of state planning under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal and state programs; and

(C) for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to those activities, which will further the purposes of this subtitle.

(2) LIMITATION ON AVAILABLE AMOUNTS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for financial assistance under this section may be provided from amounts appropriated to carry out this subtitle.]

*(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any activity eligible for financial assistance under this section, not more than—*

*(i) 50 percent may be provided from amounts appropriated to carry out this subtitle;*

*(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this subtitle; or*

*(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this subtitle.*

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## CHAPTER 145. SPECIAL APPALACHIAN PROGRAMS

SUBCHAPTER I. PROGRAMS

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### §14502. DEMONSTRATION HEALTH PROJECTS

(a) * * *

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(d) OPERATION GRANTS.—

(1) STANDARDS FOR MAKING GRANTS.—A grant for the operation of a demonstration health project shall not be made—

(A) unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit;

(B) after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may be approved under section 14322 of this title for continued support beyond that period, on request of the State, if the Commission finds that no federal, state, or local amounts are available to continue the project; and

(C) unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits.

[(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized by this section, may be made for up to 50 percent of the cost of that operation (or 80 percent of the cost of that operation for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title).]

*(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized by this section, may be made for up to—*

*(A) 50 percent of the cost of that operation;*

*(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or*

*(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation.*

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(f) MAXIMUM COMMISSION CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may contribute not more than 50 percent of any project cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to the lesser of—

(A) 80 percent; or

(B) the maximum federal contribution percentage authorized by this section.

*(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—*

*(A) 70 percent; or*

*(B) the maximum Federal contribution percentage authorized by this section.*

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**§14503. ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS**

(a) * * *

*        *        *        *        *        *        *

(d) LOANS.—

【(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) shall not be more than 50 percent (or 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of planning and obtaining financing for a project, including preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts.】

*(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—*

*(A) 50 percent of that cost;*

*(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or*

*(C) in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.*

(2) INTEREST.—A loan shall be made without interest, except that a loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for that type of project.

(3) PAYMENT.—The Secretary shall require payment of a loan made under this section, under terms and conditions the Secretary may require, no later than on completion of the project. Except for a loan to an organization established for profit, the Secretary may cancel any part of a loan made under this section on determining that a permanent loan to finance the project cannot be obtained in an amount adequate for repayment of a loan made under this section.

(e) GRANTS.—

【(1) IN GENERAL.—A grant under this section shall not be made to an organization established for profit and, except as provided in paragraph (2), shall not exceed 50 percent (or 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of a permanent loan made to finance the project.】

*(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecover-*

*able from the proceeds of a permanent loan made to finance the project shall—*

*(A) not be made to an organization established for profit; and*

*(B) except as provided in paragraph (2), not exceed—*

*(i) 50 percent of those expenses;*

*(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or*

*(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.*

(2) SITE DEVELOPMENT COSTS AND OFFSITE IMPROVEMENTS.—The Secretary may make grants and commitments for grants, and may advance amounts under terms and conditions the Secretary may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, when the grant, commitment, or advance is essential to the economic feasibility of a housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section. A grant under this paragraph for—

(A) the construction of housing shall not be more than 10 percent of the cost of the project; and

(B) the rehabilitation of housing shall not be more than 10 percent of the reasonable value of the rehabilitation housing, as determined by the Secretary.

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**§14504. TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE**

(a) * * *

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[(b) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.]

*(b)* LIMITATION ON AVAILABLE AMOUNTS.*—Of the cost of any activity eligible for a grant under this section, not more than—*

*(1) 50 percent may be provided from amounts appropriated to carry out this section;*

*(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or*

*(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section*

*14526, 70 percent may be provided from amounts appropriated to carry out this section.*

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**§14505. ENTREPRENEURSHIP INITIATIVE**

(a) * * *

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⟦(c) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.⟧

*(c)* LIMITATION ON AVAILABLE AMOUNTS.—*Of the cost of any activity eligible for a grant under this section, not more than—*

*(1) 50 percent may be provided from amounts appropriated to carry out this section;*

*(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or*

*(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.*

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**§14506. REGIONAL SKILLS PARTNERSHIPS**

(a) * * *

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⟦(d) LIMITATION ON AVAILABLE AMOUNTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.⟧

*(d)* LIMITATION ON AVAILABLE AMOUNTS.—*Of the cost of any activity eligible for a grant under this section, not more than—*

*(1) 50 percent may be provided from amounts appropriated to carry out this section;*

*(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or*

*(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.*

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**§14507. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS**

(a) * * *

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(g) MAXIMUM COMMISSION CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to 80 percent.

*(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.*

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SUBCHAPTER II. ADMINISTRATIVE

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**§14526. DISTRESSED AND ECONOMICALLY STRONG COUNTIES**

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Appalachian Regional Commission, in accordance with criteria the Commission may establish, each year shall—

(A) designate as 'distressed counties' those counties in the Appalachian region that are the most severely and persistently distressed; ⟦and⟧

*(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and*

⟦(B)⟧ *(C)* designate two categories of economically strong counties, consisting of—

(i) 'competitive counties', which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

(ii) 'attainment counties', which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

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**CHAPTER 147. MISCELLANEOUS**

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**§14703. AUTHORIZATION OF APPROPRIATIONS**

⟦(a) IN GENERAL.—In addition to amounts authorized by section 14501 of this title and other amounts made available for the Appalachian development highway system program, the following amounts may be appropriated to the Appalachian Regional Commission to carry out this subtitle:

⟦(1) $ 88,000,000 for each of the fiscal years 2002-2004.

⟦(2) $ 90,000,000 for fiscal year 2005.

⟦(3) $ 92,000,000 for fiscal year 2006.⟧

*(a)* IN GENERAL.—*In addition to amounts made available under section 14501, there are authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—*

*(1) $95,200,000 for fiscal year 2007;*
*(2) $98,600,000 for fiscal year 2008;*
*(3) $102,000,000 for fiscal year 2009;*
*(4) $105,700,000 for fiscal year 2010; and*
*(5) $109,400,000 for fiscal year 2011.*

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**§14704. TERMINATION**

This subtitle, except sections 14102(a)(1) and (b) and 14501, ceases to be in effect on October 1, [2006] *2011*.

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