# Calendar No. 274

109TH CONGRESS
1ST SESSION

# S. 1932

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

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IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Mr. GREGG, from the Committee on the Budget, reported the following original bill; which was read twice and placed on the calendar

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# A BILL

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Deficit Reduction Omnibus Reconciliation Act of 2005''.

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# TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

**SEC. 1001. SHORT TITLE.**

This title may be cited as the ''Agricultural Reconciliation Act of 2005''.

## Subtitle A—Commodity Programs

**SEC. 1101. REDUCTION OF COMMODITY PROGRAM PAYMENTS.**

(a) IN GENERAL.—Subtitle F of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991 et seq.) is amended by adding at the end the following:

**''SEC. 1619. REDUCTION OF COMMODITY PROGRAM PAYMENTS.**

''(a) DEFINITION OF COMMODITY PROGRAM PAYMENTS.—In this section, the term 'commodity program payments' means—

''(1) direct payments;

''(2) counter-cyclical payments; and

"(3) payments and benefits associated with the loan program, including gains from the forfeiture of any commodity pledged as collateral for loans and gains from in-kind payments described in section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286), as determined by the Secretary.

"(b) REDUCTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, for each of the 2006 through 2010 crop years for wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, small chickpeas, unshorn pelts, silage, hay, and peanuts, the Secretary shall reduce the total amount of commodity program payments received by the producers on a farm for those commodities for that crop year by an amount equal to 2.5 percent of that amount.

"(2) MILK.—During the period beginning on October 1, 2005, and ending on September 30, 2007, the Secretary shall reduce the total amount of payments received by producers pursuant to section 1502 by an amount equal to 2.5 percent of that amount.".

(b) COMMODITIES.—

(1) IN GENERAL.—Title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.), including each amendment made by that title, is amended by striking ''2007'' each place it appears (other than in sections 1104(f), 1304(g), and 1307(a)(6) and amendments made by this title) and inserting ''2011''.

(2) COTTON.—Sections 1204(e)(1) and 1208(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7934(e)(1), 7938(a)) are amended by striking ''2008'' each place it appears and inserting ''2012''.

**SEC. 1102. FORFEITURE PENALTY FOR NONRECOURSE SUGAR LOANS.**

Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended—

(1) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

(2) by inserting after subsection (g) the following:

''(h) FORFEITURE PENALTY.—

''(1) IN GENERAL.—In the case of each of the 2006 through 2010 crops of sugar beets and sugarcane, a penalty shall be assessed on the forfeiture of

any sugar pledged as collateral for a nonrecourse loan under this section.

"(2) AMOUNT.—The penalty for sugarcane and sugar beets under this subsection shall be 1.2 percent of the loan rate established for sugarcane and sugar beets under subsections (a) and (b), respectively.

"(3) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

"(4) CROPS.—This subsection shall apply only to the 2006 through 2010 crops of sugar beets and sugarcane.".

**SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

(a) IN GENERAL.—Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7937) is amended—

(1) by striking the section heading and inserting the following: "**UPLAND COTTON IMPORT QUOTAS.**";

(2) by striking subsection (a);

(3) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(4) in subsection (a) (as so redesignated)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ", adjusted for the value of any certificate issued under subsection (a),"; and

(ii) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)"; and

(B) in paragraph (4), by striking "subsection (c)" and inserting "subsection (b)"; and

(5) in subsection (b)(2) (as so redesignated), by striking "subsection (b)" and inserting "subsection (a)".

(b) FAIR.—Section 136 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on August 1, 2006.

**SEC. 1104. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

(a) AMOUNT.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is amended by striking paragraph (3) and inserting the following:

"(3)(A) during the period beginning on the first day of the month the producers on a dairy farm

enter into a contract under this section and ending on September 30, 2005, 45 percent; and

"(B) during the period beginning on October 1, 2005, and ending on September 30, 2007, 34 percent.".

(b) DURATION.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended by striking "2005" each place it appears in subsections (f) and (g)(1) and inserting "2007".

(c) CONFORMING AMENDMENTS.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking "and subsection (h)"; and

(2) by striking subsection (h).

**SEC. 1105. ADVANCE DIRECT PAYMENTS.**

(a) IN GENERAL.—Section 1103(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking "2007 crops years" and inserting "2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 29 percent of the direct payment for a covered commodity for any of the 2007 through 2011 crop years,".

(b) PEANUTS.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7953(e)(2)) is amended in the first sentence by striking ''2007 crops years'' and inserting ''2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 29 percent of the direct payment for any of the 2007 through 2011 crop years,''.

# Subtitle B—Conservation

**SEC. 1201. CONSERVATION RESERVE PROGRAM.**

(a) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a), by striking ''2007'' and inserting ''2011'';

(2) in subsection (d), by striking ''up'' and all that follows through ''years'' and inserting ''in the conservation reserve at any 1 time 36,400,000 acres during the 2002 through 2010 calendar years and 38,300,000 acres in the 2011 calendar year''; and

(3) in subsection (h)(1)(A), by striking ''2007'' and inserting ''2011''.

(b) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) in the matter before paragraph (1), by striking ''For'' and inserting ''Except as otherwise provided in this subsection, for''; and

(2) in paragraph (1), by striking ''The conservation'' and inserting ''For fiscal years 2002 through 2011, the conservation''.

(c) IMPLEMENTATION.—In implementing the amendments made by this section, the Secretary of Agriculture shall achieve the new maximum acreage enrollment limit not later than 2 years after the date of enactment of this Act without affecting conservation reserve existing contracts.

**SEC. 1202. CONSERVATION SECURITY PROGRAM.**

(a) IN GENERAL.—Section 1238A(a) of the Food Security Act of 1985 (16 U.S.C. 3838a(a)) is amended by striking ''2007'' and inserting ''2011''.

(b) FUNDING.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by striking ''not more than $6,037,000,000'' and all that follows through ''2014.'' and inserting the following: ''not more than—

''(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

''(B) $5,200,000,000 for the period of fiscal years 2006 through 2015.''.

**SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

(a) IN GENERAL.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa-2(a)(1)) is amended by striking ''2007'' and inserting ''2011''.

(b) LIMITATION ON PAYMENTS.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa-7) is amended by striking ''2007'' and inserting ''2011''.

(c) FUNDING.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)) is amended by striking subparagraphs (D) and (E) and inserting the following:

''(D) $1,017,000,000 in fiscal year 2005;

''(E) $1,185,000,000 in fiscal year 2006;

''(F) $1,270,000,000 in each of fiscal years 2007 through 2010; and

''(G) $1,300,000,000 in fiscal year 2011.''.

# Subtitle C—Miscellaneous

**SEC. 1301. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.**

(a) IN GENERAL.—Section 401(b)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)(3)) is amended—

(1) in subparagraph (C), by striking ''$160,000,000; and'' and inserting ''$104,000,000;'';

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following:

"(D) on October 1, 2006, and each October 1 thereafter through October 1, 2009, $130,000,000; and"; and

(4) in subparagraph (E) (as so redesignated), by striking "2006" and inserting "2010".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2005.

# TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

## Subtitle A—Merger of the Deposit Insurance Funds

**SEC. 2001. SHORT TITLE.**

This subtitle may be cited as the "Safe and Fair Deposit Insurance Act of 2005".

**SEC. 2002. DEFINITIONS.**

In this subtitle—

(1) the term "Administration" means the National Credit Union Administration;

(2) the term "Board" means the Board of Directors of the Federal Deposit Insurance Corpora-

tion (other than in connection with the National Credit Union Administration Board);

(3) the term ''Corporation'' means the Federal Deposit Insurance Corporation;

(4) the term ''designated reserve ratio'' means the reserve ratio designated by the Board under section 7(b)(3) of the Federal Deposit Insurance Act, as amended by this subtitle;

(5) the terms ''Fund'' and ''Deposit Insurance Fund'' mean the Deposit Insurance Fund established under section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this subtitle;

(6) the terms ''depository institution'' and ''insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(7) the term ''reserve ratio'' means the ratio of the fund balance of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

**SEC. 2003. MERGER OF BIF AND SAIF.**

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

**SEC. 2004. ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.**

(a) IN GENERAL.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members.";

(3) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:

"(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—";

(4) in subparagraph (C), as redesignated by paragraph (1) of this subsection, by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(5) by adding at the end the following:

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".

(b) MERGER-RELATED AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) DEFINITIONS.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended to read as follows:

"(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—

"(1) DEPOSIT INSURANCE FUND.—The terms 'Deposit Insurance Fund' and 'Fund' mean the fund established under section 11(a)(4).".

(2) ASSESSMENTS.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(A) by striking subsection (*l*);

(B) by redesignating subsections (m) and (n) as subsections (*l*) and (m), respectively; and

(C) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) ASSESSMENTS.—

"(A) IN GENERAL.—Each insured depository institution shall pay assessments to the Corporation in such amounts and at such time or times as the Board of Directors may require.

"(B) FACTORS TO BE CONSIDERED.—In setting assessments for insured depository institutions, the Board of Directors shall consider—

"(i) the estimated operating expenses of the Deposit Insurance Fund;

"(ii) the estimated case resolution expenditures and income of the Deposit Insurance Fund;

"(iii) the projected effects of assessments on the earnings and capital of insured depository institutions;

"(iv) the need to maintain a risk-based assessment system under paragraph (1); and

"(v) any other factors that the Board of Directors may determine to be appropriate.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of assessments charged to that institution.

"(D) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of subsection (c)(1) and subparagraph (A) of

this paragraph for any assessment period in which a depository institution becomes insured.''.

(3) REPEAL OF SEPARATE FUNDS PROVISIONS.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(A) by striking paragraphs (5), (6), and (7); and

(B) by redesignating paragraph (8) as paragraph (5).

**SEC. 2005. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.**

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

''(B) includes any former savings association.'';

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking ''the Bank Insurance Fund or the Savings Association Insurance Fund;'' and inserting ''the Deposit Insurance Fund,'';

(3) in section 5(c)(4), by striking ''deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking ''reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7'' and inserting ''the reserve ratio of the Deposit Insurance Fund'';

(B) by striking subparagraph (B) and inserting the following:

''(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.'';

(C) by striking ''UNINSURED INSTITUTIONS.—'' and all that follows through ''GENERAL.—'' and inserting ''UNINSURED INSTITUTIONS.—''; and

(D) by redesignating subparagraph (C) as paragraph (3) and moving the margin 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(a)(3) (12 U.S.C. 1817(a)(3))—

(A) by striking "in July"; and

(B) by striking "in January";

(9) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)—

(i) in subparagraph (B)(ii), by striking "institution's semiannual assessment" and inserting "assessments for that institution under subsection (b)"; and

(ii) in subparagraph (C)—

(I) by striking "a depository institution's semiannual assessment" and inserting "assessments for a de-

pository institution under subsection (b)''; and

(II) by striking ''deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(B) in paragraph (1)(D), by striking ''each deposit insurance fund'' and inserting ''the Deposit Insurance Fund'';

(C) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively;

(D) in paragraph (5), as so redesignated—

(i) by striking ''any such assessment'' and inserting ''any such assessment is necessary'';

(ii) by striking subparagraph (B);

(iii) in subparagraph (A)—

(I) by striking ''(A) is necessary—'';

(II) by striking ''Bank Insurance Fund members'' and inserting ''insured depository institutions''; and

(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A),

(B), and (C), respectively, and moving the margins 2 ems to the left; and

(iv) in subparagraph (C) (as redesignated)—

(I) by inserting ''that'' before ''the Corporation''; and

(II) by striking ''; and'' and inserting a period; and

(E) in paragraph (6), as so redesignated, by striking ''semiannual assessment'' and inserting ''assessment under subsection (b)'';

(10) in section 7(c) (12 U.S.C. 1817(c))—

(A) in paragraph (1), by striking ''institution's semiannual assessment'' and inserting ''assessments for that institution under subsection (b)'';

(B) by striking paragraphs (2) and (3); and

(C) by redesignating paragraph (4) as paragraph (2);

(11) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(12) in section 8 (12 U.S.C. 1818)—

(A) in subsection (p), by striking ''semi-annual'';

(B) in subsection (q), by striking ''semi-annual'' and inserting ''assessment''; and

(C) in subsection (t)(2)(C), by striking ''deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(13) in section 11 (12 U.S.C. 1821), by striking ''deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(14) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking '', except that—'' and all that follows through the end of the paragraph and inserting a period;

(15) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as redesignated), by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (A)'';

(16) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking ''institution, any'' and inserting ''institution, the'';

(17) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking ''Federal deposit insurance funds'' and inserting ''the Deposit Insurance Fund, or any predecessor deposit insurance fund'';

(18) in section 13 (12 U.S.C. 1823)—

(A) by striking ''deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(B) in subsection (a)(1), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund'';

(C) in subsection (c)(4)(E)—

(i) in the subparagraph heading, by striking ''FUNDS'' and inserting ''FUND''; and

(ii) in clause (i), by striking ''any insurance fund'' and inserting ''the Deposit Insurance Fund'';

(D) in subsection (c)(4)(G)(ii)—

(i) by striking ''appropriate insurance fund'' and inserting ''Deposit Insurance Fund'';

(ii) by striking ''the members of the insurance fund (of which such institution is a member)'' and inserting ''insured depository institutions'';

(iii) by striking ''each member's'' and inserting ''each insured depository institution's'';

(iv) by striking ''the member's'' each place that term appears and inserting ''the institution's''; and

(v) in subclause (II), by striking ''semiannual'' and inserting ''applicable assessment'';

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking ''Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(G) in subsection (k)(4)(B)(i), by striking ''Savings Association Insurance Fund member'' and inserting ''savings association''; and

(H) in subsection (k)(5)—

(i) in subparagraph (A), by striking ''Savings Association Insurance Fund

members'' and inserting ''savings associations'';

(ii) by striking ''member's'' each place that term appears and inserting ''savings association's''; and

(iii) by striking ''member'' each place that term appears and inserting ''savings association'';

(19) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(B) by striking ''each such fund'' and inserting ''the Deposit Insurance Fund'';

(20) in section 14(b) (12 U.S.C. 1824(b)), by striking ''Bank Insurance Fund or Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(21) in section 14(c) (12 U.S.C. 1824(c))—

(A) in paragraph (2)(A), by striking ''(7)'' and inserting ''(6)''; and

(B) by striking paragraph (3);

(22) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking ''Bank Insurance Fund member'' each place that term appears and inserting ''insured depository institution'';

(B) by striking ''Bank Insurance Fund members'' each place that term appears and inserting ''insured depository institutions'';

(C) by striking ''Bank Insurance Fund'' each place that term appears (other than in connection with a reference to a Bank Insurance Fund member or members) and inserting ''Deposit Insurance Fund'';

(D) by striking the subsection heading and inserting the following:

''(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—'';

(E) in paragraph (3), in the paragraph heading, by striking ''BIF'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(F) in paragraph (5), in the paragraph heading, by striking ''BIF MEMBERS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS'';

(23) in section 14 (12 U.S.C. 1824), by adding at the end the following:

''(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

"(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board; and

"(C) be a direct liability of the Deposit Insurance Fund.";

(24) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Associa-

tion Insurance Fund, respectively'' and inserting ''the Deposit Insurance Fund'';

(25) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking ''BIF, SAIF,'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(B) in paragraph (1)—

(i) by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' each place that term appears and inserting ''the Deposit Insurance Fund''; and

(ii) in subparagraph (D), by striking ''each insurance fund'' and inserting ''the Fund'';

(26) in section 17(d) (12 U.S.C. 1827(d)), by striking '', the Bank Insurance Fund, the Savings Association Insurance Fund,'' each place that term appears and inserting ''the Deposit Insurance Fund'';

(27) in section 18(m) (12 U.S.C. 1828(m))—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking the colon and inserting a dash;

(B) in paragraph (3)(A)—

(i) by striking ''poses a serious threat to the Savings Association Insurance Fund'' and inserting ''of an insured savings association poses a serious threat to the Deposit Insurance Fund''; and

(ii) by striking ''Savings Association Insurance Fund member'' and inserting ''insured savings association''; and

(C) in paragraph (3)(C), by striking ''Savings Association Insurance Fund or the Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(28) in section 18(o) (12 U.S.C. 1828(o)), by striking ''deposit insurance funds'' and ''deposit insurance fund'' each place those terms appear and inserting ''Deposit Insurance Fund'';

(29) in section 18(p) (12 U.S.C. 1828(p)), by striking ''deposit insurance funds'' and inserting ''Deposit Insurance Fund'';

(30) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking ''appropriate deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(B) in subsection (e)(2)(A), by striking ''risk to'' and all that follows through the period and inserting ''risk to the Deposit Insurance Fund.''; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking ''the insurance fund of which such bank is a member'' each place that term appears and inserting ''the Deposit Insurance Fund'';

(31) in section 28 (12 U.S.C. 1831e), by striking ''affected deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(32) by striking section 31 (12 U.S.C. 1831h);

(33) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(34) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking ''insurance funds'' and inserting ''Deposit Insurance Fund'';

(35) in section 38 (12 U.S.C. 1831o), by striking ''the deposit insurance fund'' each place that term appears and inserting ''the Deposit Insurance Fund'';

(36) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking ''FUNDS'' and inserting ''FUND'';

(37) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking ''a deposit insurance fund'' and inserting ''the Deposit Insurance Fund'';

(B) in paragraph (2), by striking ''A deposit insurance fund'' and inserting ''The Deposit Insurance Fund''; and

(C) in paragraphs (2)(A) and (3)(B), by striking ''the deposit insurance fund's outlays'' each place that term appears and inserting ''the outlays of the Deposit Insurance Fund''; and

(38) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking ''ASSOCIATIONS.—'' and all that follows through ''Subsections (e)(2)'' in paragraph (2) and inserting ''ASSOCIATIONS.—Subsections (e)(2)'';

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subpara-

graphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) CONFORMING TRANSFER OF FUNDS.—Any funds resulting from the application of section 7(d)(2) of the Federal Deposit Insurance Act prior to its repeal under subsection (a)(4) of this section shall be deposited into the general fund of the Deposit Insurance Fund established pursuant to this subtitle.

**SEC. 2006. OTHER TECHNICAL AND CONFORMING AMENDMENTS.**

(a) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the ''Eleventh'' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is

amended by striking ''any deposit insurance fund in'' and inserting ''the Deposit Insurance Fund of''.

(d) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by striking ''Bank Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(2) by striking ''Federal Deposit Insurance Corporation, Savings Association Insurance Fund;''.

(e) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 11(k) (12 U.S.C. 1431(k))—

(A) in the subsection heading, by striking ''SAIF'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(B) by striking ''Savings Association Insurance Fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking '', except that'' and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''; and

(4) in section 21B(k) (12 U.S.C. 1441b(k)) by inserting before the colon '', the following definitions shall apply''.

(f) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(6), by striking ''As used in this subsection—'' and inserting ''For purposes of this subsection, the following definitions shall apply:'';

(B) in subsection (o)(1), by striking ''that is a Bank Insurance Fund member'';

(C) in subsection (o)(2)(A), by striking ''a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member'' and inserting ''insured by the Deposit Insurance Fund'';

(D) in subsection (t)(5)(D)(iii)(II), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(E) in subsection (t)(7)(C)(i)(I), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''; and

(F) in subsection (v)(2)(A)(i), by striking ''the Savings Association Insurance Fund'' and inserting ''or the Deposit Insurance Fund''; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking ''this title'' and inserting ''this Act'';

(B) in subsection (e)(1)(B), by striking ''Savings Association Insurance Fund or Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(C) in subsection (e)(2), by striking ''Savings Association Insurance Fund or the Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(D) in subsection (e)(4)(B), by striking ''subsection (1)'' and inserting ''subsection (*l*)'';

(E) in subsection (g)(3)(A), by striking ''(5) of this section'' and inserting ''(5) of this subsection'';

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;

(H) in subsection (m)(7)(A), by striking ''during period'' and inserting ''during the period''; and

(I) in subsection (o)(3)(D), by striking ''sections 5(s) and (t) of this Act'' and inserting ''subsections (s) and (t) of section 5''.

(g) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking ''Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations'' and inserting ''Deposit Insurance Fund''; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking ''Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations'' and inserting ''Deposit Insurance Fund''.

(h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund (or any predecessor deposit insurance fund)''; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund''.

(i) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking ''appropriate deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.—Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended in each of subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), by striking ''any Federal deposit insurance fund'' and inserting ''the Deposit Insurance Fund''.

**SEC. 2007. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective not later than the first day of the first calendar quarter that begins more than 90 days after the date of enactment of this Act.

(b) EARLIER IMPLEMENTATION.—

(1) CORPORATION DETERMINATION.—If the Corporation determines that merger of the deposit insurance funds should occur before the first day of the first calendar quarter as described in subsection (a), the Corporation shall—

(A) announce such determination publicly; and

(B) establish the effective date of the merger.

(2) EARLIER EFFECTIVE DATE.—On the date established under paragraph (1)(B), this subtitle

and the amendments made by this subtitle shall become effective.

# Subtitle B—Deposit Insurance Modernization and Improvement

**SEC. 2011. SHORT TITLE.**

This subtitle may be cited as the ''Deposit Insurance Reform Act of 2005''.

**SEC. 2012. CHANGES TO FEDERAL DEPOSIT INSURANCE COVERAGE.**

(a) INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(A) by striking subparagraph (B) and inserting the following:

''(B) NET AMOUNT OF INSURED DEPOSITS.—The net amount of deposit insurance payable to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount, as determined in accordance with subparagraphs (C) through (M).''; and

(B) by striking subparagraph (D) and inserting the following:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

"(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

"(I) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 38.

"(II) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan' has the same meaning as in paragraph (5)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(III) PASS-THROUGH DEPOSIT INSURANCE.—The term 'pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.

"(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this paragraph, the term 'standard maximum deposit insurance amount' means, until April 1, 2010, $100,000.

"(F) DETERMINATION REGARDING INFLATION ADJUSTMENTS.—

"(i) ADJUSTMENTS TO STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT.—Not later than April 1, 2010, and the first day of each 5-year period thereafter, the Board of Directors shall determine whether to increase the standard maximum deposit insurance amount based on the factors set forth under subparagraph (G).

"(ii) ADJUSTMENTS FOR CERTAIN RETIREMENT ACCOUNTS.—Not later than

April 1, 2010, and the first day of each 5-year period thereafter, the Board of Directors shall determine whether to increase the amount of insurance available for retirement accounts under paragraph (3), based on the factors set forth under subparagraph (G).

"(G) INFLATION ADJUSTMENT CONSIDERATIONS.—In making any determination under subparagraph (F), the Board of Directors shall consider—

"(i) the economic conditions affecting insured depository institutions;

"(ii) the overall risk or risks to the Deposit Insurance Fund;

"(iii) a demonstrated need by depositors for the inflation adjustment increase;

"(iv) the ability of insured depository institutions to identify and obtain alternative funding sources;

"(v) the ability of insured depository institutions to meet the credit needs of their communities;

"(vi) potential problems affecting insured depository institutions generally or a

specific group or type of insured depository institutions; and

"(vii) any other factors that the Board of Directors deems appropriate.

"(H) INFLATION ADJUSTMENT CALCULATIONS FOR 2010.—

"(i) CALCULATION FOR STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT.—The amount provided for any increase in the standard maximum deposit insurance amount shall be, as of April 1, 2010, the product of—

"(I) $100,000; and

"(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this subparagraph, to the value of such index for December 31 of the year preceding the effective date of the Safe and Fair Deposit Insurance Act of 2005.

"(ii) CALCULATION FOR CERTAIN RETIREMENT ACCOUNTS FOR 2010.—The amount provided for any increase in the insurance for retirement accounts under paragraph (3) shall be, as of April 1, 2010, the product of—

"(I) $250,000; and

"(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this subparagraph, to the value of such index for December 31 of the year preceding the effective date of the Safe and Fair Deposit Insurance Act of 2005.

"(I) INFLATION ADJUSTMENT CALCULATIONS AFTER 2010.—

"(i) CALCULATION FOR THE STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT.—The amount provided for any increase in the standard maximum deposit

insurance amount shall be, as of the 1st day of each 5-year period beginning on April 1, 2015, the product of—

"(I) the standard maximum deposit insurance amount; and

"(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this subparagraph, to the value of such index for December 31 of the 6 years prior to the year in which the adjustment is calculated under this subparagraph.

"(ii) CALCULATION FOR CERTAIN RETIREMENT ACCOUNTS.—The amount provided for any increase in the insurance for retirement accounts under paragraph (3) shall be, as of the 1st day of each 5-year period beginning on April 1, 2015, the product of—

"(I) the amount available for retirement accounts under paragraph (3), as adjusted pursuant to subparagraph (H) or this subparagraph, as appropriate; and

"(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this subparagraph, to the value of such index for December 31 of the 6 years prior to the year in which the adjustment is calculated under this subparagraph.

"(J) DETERMINATION OF NO INFLATION INCREASES.—If the Board cannot support an increase under subparagraph (F) after consideration of the factors in subparagraph (G), no inflation adjustment shall be made until reconsideration at the beginning of the next 5-year period.

"(K) ROUNDING.—If the amount of increase determined for any period is not a multiple of $10,000, the amount so determined shall be rounded to the nearest $10,000.

"(L) PUBLICATION.—Not later than April 1, 2010, and not later than the first day of each 5-year period thereafter, the Board of Directors shall publish in the Federal Register the standard maximum deposit insurance amount and the amount of deposit insurance coverage that may be due to any depositor at any insured depository institution during the applicable 5-year period.

"(M) NO INFLATION ADJUSTMENTS FOR PUBLIC FUNDS.—Subparagraphs (E) through (L) shall not apply to any deposits of depositors described in paragraph (2), and the net amount due to any such depositor at an insured depository institution shall not exceed $100,000.".

(2) DEPOSIT INSURANCE FOR RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended—

(A) by striking "$100,000" and inserting "$250,000"; and

(B) by inserting before the period at the end the following: ''which amount shall be subject to inflation adjustments as provided in paragraph (1).''.

(3) TECHNICAL AND CONFORMING AMENDMENT RELATING TO INSURANCE OF TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended in each of paragraphs (1) and (3), by striking ''$100,000'' each place it appears and inserting ''the standard maximum deposit insurance amount (as determined under section 11(a)(1))''.

(4) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 11(m)(6) (12 U.S.C. 1821(m)(6)), by striking ''$100,000'' and inserting ''the standard maximum deposit insurance amount (as determined under subsection (a)(1))'';

(B) in section 18 (12 U.S.C. 1828), by striking subsection (a) and inserting the following:

''(a) INSURANCE LOGO.—

''(1) INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use."; and

(C) in section 43(d) (12 U.S.C. 1831t(d)), by striking "$100,000" and inserting "the

standard maximum deposit insurance amount (as determined under section 11(a)(1))''.

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(A) by striking ''(k)(1)'' and all that follows through the end of paragraph (1) and inserting the following:

''(k) INSURED AMOUNTS PAYABLE.—

''(1) NET INSURED AMOUNT.—

''(A) IN GENERAL.—Subject to the provisions of paragraph (2), the net amount of share insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistent with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

"(B) AGGREGATION.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

"(C) AUTHORITY TO DEFINE THE EXTENT OF COVERAGE.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.";

(B) by adding at the end the following:

"(4) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(A) PASS-THROUGH INSURANCE.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan, subject to subparagraph (B).

"(B) PROHIBITION ON ACCEPTANCE OF DEPOSITS.—An insured credit union that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(C) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 216(c), as added by section 301 of the Credit Union Membership Access Act (Public Law 105–219, 112 Stat. 931).

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the same meaning as in section 3(3) of the Employee Retirement Income Security Act of 1974;

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

"(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(iii) PASS-THROUGH SHARE INSURANCE.—The term 'pass-through share insurance' means, with respect to an employee benefit plan, insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.

"(5) STANDARD MAXIMUM SHARE INSURANCE AMOUNT DEFINED.—For purposes of this subsection, the term 'standard maximum share insurance amount' means, until April 1, 2010, $100,000.

"(6) DETERMINATIONS REGARDING INFLATION ADJUSTMENTS.—

"(A) ADJUSTMENTS TO STANDARD MAXIMUM SHARE INSURANCE AMOUNT.—Not later than April 1, 2010, and the first day of each 5-year period thereafter, the Board shall determine whether to increase the standard maximum share insurance amount based on the factors set forth under paragraph (7).

"(B) ADJUSTMENT FOR CERTAIN RETIREMENT ACCOUNTS.—Not later than April 1, 2010, and the first day of each 5-year period thereafter, the Board shall determine whether to increase the amount of insurance available

for retirement accounts under paragraph (3), based on the factors set forth under paragraph (7).

"(7) INFLATION ADJUSTMENT CONSIDERATIONS.—In making any determination under paragraph (6), the Board shall consider—

"(A) the economic conditions affecting insured credit unions;

"(B) the overall risk or risks to the National Credit Union Share Insurance Fund;

"(C) a demonstrated need by members for the inflation adjustment increase;

"(D) the ability of insured credit unions to identify and obtain alternative funding sources;

"(E) the ability of insured credit unions to meet the credit needs of their communities;

"(F) potential problems affecting insured credit unions generally or a specific group or type of insured credit unions; and

"(G) any other factors that the Board deems appropriate.

"(8) INFLATION ADJUSTMENT CALCULATIONS FOR 2010.—

"(A) CALCULATION FOR STANDARD MAXIMUM SHARE INSURANCE AMOUNT.—The

amount provided for any increase in the standard maximum share insurance amount shall be, as of April 1, 2010, the product of—

"(i) $100,000; and

"(ii) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this paragraph, to the value of such index for December 31 of the year preceding the effective date of the Safe and Fair Deposit Insurance Act of 2005.

"(B) CALCULATION FOR CERTAIN RETIREMENT ACCOUNTS FOR 2010.—The amount provided for any increase in the insurance for retirement accounts under paragraph (3) shall be, as of April 1, 2010, the product of—

"(i) $250,000; and

"(ii) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Com-

merce, for December 31 of the year preceding the year in which the adjustment is calculated under this paragraph, to the value of such index for December 31 of the year preceding the effective date of the Safe and Fair Deposit Insurance Act of 2005.

"(9) INFLATION ADJUSTMENT CALCULATIONS AFTER 2010.—

"(A) CALCULATION FOR THE STANDARD MAXIMUM SHARE INSURANCE AMOUNT.—The amount provided for any increase in the standard maximum share insurance amount shall be, as of the 1st day of each 5-year period beginning on April 1, 2015, the product of—

"(i) the standard maximum share insurance amount; and

"(ii) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this paragraph, to the value of such index for December 31 of the

6 years prior to the year in which the adjustment is calculated under this paragraph.

"(B) CALCULATION FOR CERTAIN RETIREMENT ACCOUNTS.—The amount provided for any increase in the insurance for retirement accounts under paragraph (3) shall be, as of the 1st day of each 5-year period beginning on April 1, 2015, the product of—

"(i) the amount available for retirement accounts under paragraph (3), as adjusted pursuant to paragraph (8) or this paragraph, as appropriate; and

"(ii) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, for December 31 of the year preceding the year in which the adjustment is calculated under this paragraph, to the value of such index for December 31 of the 6 years prior to the year in which the adjustment is calculated under this paragraph.

"(10) DETERMINATION OF NO INFLATION INCREASE.—If the Board cannot support an increase under paragraph (6) after consideration of the factors in paragraph (7), no inflation adjustment shall be made until reconsideration at the beginning of the next 5-year period.

"(11) ROUNDING.—If the amount of increase determined for any period is not a multiple of $10,000, the amount so determined shall be rounded to the nearest $10,000.

"(12) PUBLICATION.—Not later than April 1, 2010, and not later than the first day of each 5-year period thereafter, the Board shall publish in the Federal Register the standard maximum share insurance amount and the amount of share insurance coverage that may be due to any depositor at any insured credit union during the applicable 5-year period.

"(13) NO INFLATION ADJUSTMENTS FOR PUBLIC FUNDS.—Paragraphs (5) through (12) shall not apply to any deposits of depositors described in paragraph (2), and the net amount due to any such depositor at an insured credit union shall not exceed $100,000."; and

(C) in paragraph (3), by striking "$100,000 per account" and inserting the following: "$250,000 per account, which amount shall be subject to inflation adjustments as provided in paragraphs (6) through (12).".

(2) TECHNICAL AMENDMENT.—Section 202(h) of the Federal Credit Union Act (12 U.S.C. 1782(h)) is amended by striking "207(c)(1)" and inserting "207(k)".

(c) EFFECTIVE DATE.—Except as otherwise specifically provided in this section or the amendments made by this section, this section and such amendments shall become effective on the effective date of the regulations required under section 2017(a)(2), relating to the implementation of deposit insurance changes under this section.

**SEC. 2013. DESIGNATED RESERVE RATIO.**

(a) REPEAL OF RECAPITALIZATION SCHEDULE.—

(1) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) DESIGNATED RESERVE RATIO.—

"(A) ACTION BY THE BOARD.—

"(i) IN GENERAL.—Before the beginning of each calendar year, the Board of Directors shall, subject to clause (ii)—

"(I) designate the reserve ratio applicable to the Deposit Insurance Fund for that year; and

"(II) publish the reserve ratio so designated.

"(ii) RULEMAKING.—Any change to the designated reserve ratio for any calendar year shall be made pursuant to section 553 of title 5, United States Code.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.50 percent; and

"(ii) may not be less than 1.15 percent.

"(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

"(i) take into account the risk of losses to the Deposit Insurance Fund in that year and in future years;

"(ii) take into account economic conditions generally affecting insured depository institutions, to provide for an increase in the designated reserve ratio during more

favorable economic conditions and to provide for a decrease in the designated reserve ratio during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813), as amended by this title, is amended by adding at the end the following:

"(2) RESERVE RATIO.—The term 'reserve ratio' means the ratio of the fund balance of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

"(3) DESIGNATED RESERVE RATIO.—The term 'designated reserve ratio' means the reserve ratio

designated by the Board of Directors under section 7(b)(3).''.

(3) EFFECTIVE DATE.—Subject to paragraph (4), and except as otherwise provided, this subsection and the amendments made by this subsection shall become effective on the effective date of the regulations required under section 2017(a)(1), relating to designation of the reserve ratio by the Board.

(4) DESIGNATION OF INITIAL RESERVE RATIO FOR DEPOSIT INSURANCE FUND.—During the period beginning on the effective date of the merger of the deposit insurance funds under section 2003, and ending on the effective date of final regulations designating the reserve ratio, as required by section 2017(a)(1), the designated reserve ratio of the Deposit Insurance Fund shall continue to be determined pursuant to section 7(b)(2)(A)(iv), as in effect on the day before the effective date of the merger under section 2003.

(b) REQUIREMENTS APPLICABLE TO ANY MODIFICATION OF THE RISK-BASED ASSESSMENT SYSTEM.—Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following:

"(E) REQUIREMENTS APPLICABLE TO ANY MODIFICATION OF THE RISK-BASED ASSESSMENT SYSTEM.—

"(i) IN GENERAL.—In revising or modifying the risk-based assessment system at any time after the date of enactment of the Deposit Insurance Reform Act of 2005, the Board of Directors—

"(I) may not make any change to the information collected from or required to be retained by insured depository institutions solely for purposes of the assessment risk classification, as defined by regulations of the Board, if the change would result in the imposition of an overall greater regulatory or reporting burden on insured depository institutions than was the case before that date of enactment; and

"(II) may implement any such revision or modification in final form only after notice and opportunity for comment.

"(ii) RULE OF CONSTRUCTION.—An increase in an assessment rate or a revision of the assessment base shall not be considered to be a revision or modification resulting in greater regulatory or reporting burden for purposes of this subparagraph.".

**SEC. 2014. ASSESSMENT CREDITS AND DIVIDENDS.**

(a) IN GENERAL.—Section 7(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)(2)) is amended to read as follows:

"(2) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

"(A) IN GENERAL.—The Board of Directors shall, by regulation, provide for a credit to each insured depository institution that was in existence on December 31, 1996, and that had paid a deposit insurance assessment prior to that date (or a successor insured depository institution), based on the assessment base of the institution on that date, as compared to the combined aggregate assessment base of all such institutions, taking into account such factors as the Board may determine to be appropriate.

"(B) CREDIT LIMIT.—The aggregate amount of credits available under subparagraph (A) to all insured depository institutions that are eligible for the credit shall not exceed the amount that the Corporation could collect if it imposed an assessment of 9 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(C) DEFINITION OF SUCCESSOR.—The Corporation shall define the term 'successor' for purposes of this paragraph, by regulation, and may consider, among other factors and as the Board may deem appropriate, whether and to what extent, if any, an insured depository institution that acquires deposits from another insured depository institution may deemed to be a successor.

"(D) APPLICATION OF CREDITS.—The amount of a credit to any insured depository institution under this paragraph may be applied by the Corporation to those portions of the assessments under subsection (b) applicable to that institution which become due for assess-

ment periods beginning after the effective date of regulations required by subparagraph (A).''.

(b) AMENDMENTS TO SECTION 7.—Section 7(e) of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended by adding at the end the following new paragraphs:

''(3) DIVIDENDS.—

''(A) RESERVE RATIO IN EXCESS OF 1.50 PERCENT OF ESTIMATED INSURED DEPOSITS.—The Corporation shall provide cash dividends to insured depository institutions in accordance with this paragraph if the reserve ratio of the Deposit Insurance Fund exceeds the maximum amount established under subsection (b)(3)(B)(i), to the extent of that excess amount.

''(B) AMOUNT EQUAL TO OR IN EXCESS OF 1.40 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.50 PERCENT.—The Corporation shall provide cash dividends to insured depository institutions in accordance with this paragraph if the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.40 and is not more than 1.50 percent, and that amount shall equal 50 percent of the amount in

excess of the amount required to maintain the reserve ratio at 1.40 percent of the estimated insured deposits.

"(C) FACTORS FOR CONSIDERATION FOR ALLOCATION OF DIVIDENDS.—In implementing the provisions of this paragraph, and in accordance with its regulations, the Corporation shall consider—

"(i) the ratio of the assessment base of an insured depository institution (including any predecessor institution) on December 31, 1996, to the assessment base of all eligible insured depository institutions on such date;

"(ii) the total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor institution) to the Deposit Insurance Fund (and any predecessor deposit insurance fund);

"(iii) that portion of assessments paid by an insured depository institution (including any predecessor institution) that reflects higher levels of risk assumed by such institution; and

"(iv) such other factors as the Corporation determines appropriate.

"(D) LIMITATION.—The Board of Directors may suspend or limit dividends paid under subparagraph (B) if the Board determines in writing that—

"(i) a significant risk of losses to the Deposit Insurance Fund exists over the next one-year period; and

"(ii) it is likely that such losses will be sufficiently high as to justify a finding by the Board that the reserve ratio should temporarily be allowed—

"(I) to grow without requiring dividends under subparagraph (B); or

"(II) to exceed the maximum amount established under subsection (b)(3)(B)(i).

"(E) CONSIDERATIONS.—In making a determination under subparagraph (D), the Board shall consider—

"(i) national and regional conditions and their impact on insured depository institutions;

"(ii) potential problems affecting insured depository institutions or a specific group or type of depository institution;

"(iii) the degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and

"(iv) any other factors that the Board determines are appropriate.

"(F) REPORT TO CONGRESS.—

"(i) SUBMISSION.—Any determination under subparagraph (D) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 270 days after making such determination.

"(ii) CONTENT.—The report submitted under clause (i) shall include—

"(I) a detailed explanation for the determination; and

"(II) a discussion of the factors required to be considered under subparagraph (E).

"(G) REVIEW OF DETERMINATION.—

"(i) ANNUAL REVIEW.—A determination to suspend or limit dividends under subparagraph (D) shall be reviewed by the Board of Directors annually.

"(ii) ACTION BY BOARD.—Based on each annual review under clause (i), the Board of Directors shall either renew or remove a determination to suspend or limit dividends under subparagraph (D), or shall make a new determination in accordance with this paragraph. Unless justified under the terms of the renewal or new determination, the Corporation shall be required to provide cash dividends under subparagraph (A) or (B), as appropriate.

"(4) CHALLENGES TO CREDIT OR DIVIDEND AMOUNTS.—The regulations required under this subsection shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of its credit or dividend under this subsection. The determination of the Corporation of the amount of the credit or dividend following such challenge shall be final, and not subject to judicial review.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the effective date of the regulations required to be issued under section 2017(a)(3), relating to implementation of the one-time assessment credit.

**SEC. 2015. ASSESSMENTS-RELATED RECORDS RETENTION AND STATUTE OF LIMITATIONS.**

(a) RECORDS RETENTION.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) RECORDS TO BE MAINTAINED BY INSURED DEPOSITORY INSTITUTION.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's assessments until the later of—

"(A) 3 years from the due date of each assessment payment; or

"(B) the date of the final determination of any dispute between the insured depository institution and the Corporation over the amount of any assessment.".

(b) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—Subsection (g) of section 7 of the Federal Deposit

Insurance Act (12 U.S.C. 1817(g)) is amended to read as follows:

"(g) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any insured depository institution the amount of any unpaid assessment lawfully payable by such insured depository institution. Notwithstanding any other provision in Federal law, or the law of any State—

"(1) any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exception in paragraph (5);

"(2) any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exceptions in paragraphs (3) and (5);

"(3) if an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery

of the false or fraudulent statement in which to bring an action to recover the underpaid amount;

''(4) assessment deposit information contained in records no longer required to be maintained pursuant to subsection (b)(5) shall be considered conclusive and not subject to change; and

''(5) any action for the underpaid or overpaid amount of any assessment that became due prior to the effective date of this subsection shall be subject to the statute of limitations for assessments in effect at the time the assessment became due.''.

**SEC. 2016. INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.**

Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended—

(1) by striking ''Any insured depository institution'' and inserting ''(1) IN GENERAL.—Any insured depository institution'';

(2) in paragraph (1), as redesignated, by striking ''penalty of not more than $100'' and inserting ''penalty in an amount of not more than 1 percent of the amount of the assessment due''; and

(3) by inserting new paragraphs (2) and (3) as follows:

"(2) EXCEPTION FOR SMALL ASSESSMENT AMOUNTS.—Notwithstanding paragraph (1), if the amount of the assessment for an insured depository institution is less than $10,000 at the time such institution fails or refuses to pay the assessment, such institution shall be subject to a penalty of not more than $100 for each day that such violation continues.

"(3) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify, or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) or (2) upon a finding that good cause prevented the timely payment of an assessment.".

**SEC. 2017. REGULATIONS REQUIRED.**

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Board shall issue final regulations, in accordance with section 553 of chapter 5 of title 5, United States Code—

(1) designating the reserve ratio for the Deposit Insurance Fund, in accordance with section 7(b)(3) of the Federal Deposit Insurance Act, as amended by section 2013 of this subtitle, which regulations

shall become effective not later than 90 days after the date of their publication in final form;

(2) implementing changes in deposit insurance coverage in accordance with the amendments made by section 2012, which regulations shall become effective not later than 90 days after the date of their publication in final form;

(3) implementing the one-time assessment credit to certain insured depository institutions in accordance with section 7(e)(2) of the Federal Deposit Insurance Act, as amended by section 2014 of this subtitle;

(4) establishing the qualifications and procedures under which the Corporation may provide dividends under section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 2014 of this subtitle; and

(5) providing for assessments under section 7 of the Federal Deposit Insurance Act, as amended by this subtitle, which regulations shall become effective on the effective date of the regulations required by paragraph (3).

(b) SAVINGS CLAUSE.—

(1) IN GENERAL.—

(A) CONTINUATION OF EXISTING ASSESSMENT REGULATIONS.—Nothing in this title or the amendments made by this title shall be construed to affect the authority of the Corporation with regard to the setting or collection of deposit insurance assessments pursuant to any regulations in effect prior to the effective date of any regulations required under subsection (a).

(B) TREATMENT OF DIF MEMBERS UNDER EXISTING REGULATIONS.—Assessment regulations in effect prior to the date of enactment of this title shall be read as applying to members of the Deposit Insurance Fund rather than members of the Bank Insurance Fund or Savings Association Insurance Fund, effective on or after the date on which merger of the deposit insurance funds becomes effective under title I.

(2) SETTING ASSESSMENTS.—Clause (i) of section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended by striking ''necessary—'' and all that follows through the period at the end and inserting ''necessary.''.

**SEC. 2018. STUDIES OF POTENTIAL CHANGES TO THE FEDERAL DEPOSIT INSURANCE SYSTEM.**

(a) STUDY AND REPORT BY FDIC AND NCUA.—

(1) STUDY.—The Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each conduct a study of—

(A) the feasibility of increasing the limit on deposit insurance for deposits of municipalities and other units of general local government, and the potential benefits and the potential adverse consequences that may result from any such increase; and

(B) the feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor, and the potential benefits and the potential adverse consequences that may result from the establishment of any such system.

(2) REPORT.—Not later than 1 year after the date of enactment of this title, the Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each submit a report to the Congress on the study required under paragraph (1), containing

the findings and conclusions of the reporting agency, together with such recommendations for legislative or administrative changes as the agency may determine to be appropriate.

(b) STUDY AND REPORT REGARDING APPROPRIATE RESERVE RATIO.—

(1) STUDY.—The Corporation shall conduct a study on the feasibility of using alternatives to estimated insured deposits in calculating the reserve ratio of the Deposit Insurance Fund.

(2) REPORT.—Not later than 1 year after the date of enactment of this title, the Board shall submit a report to Congress on the results of the study required under paragraph (1), together with such recommendations for legislative or administrative actions as may be determined to be appropriate.

**SEC. 2019. EFFECTIVE DATE.**

Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this Act.

# Subtitle C—FHA Asset Disposition

**SEC. 2021. SHORT TITLE.**

This subtitle may be cited as the ''FHA Asset Disposition Act of 2005''.

**SEC. 2022. DEFINITIONS.**

For purposes of this subtitle—

(1) the term ''affordability requirement'' means any requirement or restriction imposed by the Secretary, at the time of sale, on any multifamily real property or multifamily loan, including a use restriction, rent restriction, or rehabilitation requirement;

(2) the term ''discount sale'' means the sale of multifamily real property in a transaction, including a negotiated sale, in which the sale price is—

(A) lower than the property market value; and

(B) set outside of a competitive bidding process that has no affordability requirements;

(3) the term ''discount loan sale'' means the sale of a multifamily loan in a transaction, including a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements;

(4) the term ''loan market value'' means the value of a multifamily loan, without taking into account any affordability requirements;

(5) the term ''multifamily real property'' means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to ac-

quisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act;

(6) the term ''multifamily loan'' means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act;

(7) the term ''property market value'' means the value of any multifamily real property for its current use, without taking into account any affordability requirements; and

(8) the term ''Secretary'' means the Secretary of Housing and Urban Development.

**SEC. 2023. APPROPRIATED FUNDS REQUIREMENT FOR BELOW MARKET SALES.**

(a) DISPOSITIONS BY SECRETARY.—Notwithstanding any other provision of law, other than any statutory affordability requirement for the elderly and disabled, disposition by the Secretary of any multifamily real property through a discount sale under section 207(l) or 246 of the National Housing Act, section 203 of the Housing and Community Development Amendments of 1978, or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Ap-

propriations Act, 1997, shall be subject to the availability of appropriations to the extent that the property value exceeds the sale proceeds. If the multifamily real property is sold for an amount equal to or greater than the property market value, the transaction is not subject to the availability of appropriations.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law, and in accordance with the Credit Reform Act of 1990, a discount loan sale under 207(k) of the National Housing Act, section 203(k) of the Housing and Community Development Amendments of 1978, or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, shall be subject to the availability of appropriations, to the extent that the loan value exceeds the sale proceeds. If the multifamily loan is sold for an amount equal to or greater than the loan market value, then the transaction is not subject to the availability of appropriations.

(c) LIMITATION.—This section shall not apply to any transaction that formally commences during the 1-year period preceding the date of enactment of this Act.

**SEC. 2024. UP-FRONT GRANTS.**

(a) VA-HUD.—Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development,

and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a)) is amended by adding at the end the following: ''A grant provided under this subsection shall be available only to the extent that appropriations are made in advance for such purpose, and shall not be derived from the General Insurance Fund.''.

(b) OTHER GRANT AUTHORITY.—Section 203(f) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(f)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (9) as paragraphs (4) through (8), respectively.

(c) LIMITATION.—The amendments made by this section shall not apply to any grant in connection with any transaction that formally commences during the 1-year period preceding the date of enactment of this Act.

**SEC. 2025. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for fiscal year 2006, $100,000,000 to carry out this subtitle.

# TITLE III—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

**SEC. 3001. SHORT TITLE.**

This title may be cited as the ''Digital Transition and Public Safety Act of 2005.''.

**SEC. 3002. ANALOG SPECTRUM RECOVERY; HARD DEADLINE.**

Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) by striking ''December 31, 2006.'' in subparagraph (A) and inserting ''April 7, 2009.'';

(2) by striking subparagraph (B);

(3) by striking ''or (B)'' in subparagraph (C)(i)(I);

(4) by striking ''(C)(i),'' in subparagraph (D) and inserting ''(B)(i),''; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

**SEC. 3003. AUCTION OF RECOVERED SPECTRUM.**

(a) AUCTION: DATE, APPLICABLE REQUIREMENTS.—Section 309(j)(15)(C) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(C)) is amended by adding at the end the following:

''(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall—

''(I) conduct the auction of the licenses for recovered analog spectrum commencing January 28, 2008;

"(II) not later than 60 days after the end of the pleading cycle for long-form applications for such auction established pursuant to part 1 of title 47, Code of Federal Regulations, grant or deny such long-form applications and issue the licenses for such recovered analog spectrum to each successful bidder whose long-form application is granted; and

"(III) collect and deposit the proceeds of such auction in the Digital Transition and Public Safety Fund established by section 3005 of the Digital Transition and Public Safety Act of 2005.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of this subparagraph, the term 'recovered analog spectrum' means spectrum reclaimed from the analog television service under paragraph (14), except—

"(I) spectrum required by section 337 to be made available for public safety services; and

"(II) spectrum auctioned prior to the date of enactment of the Digital Transition and Public Safety Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Paragraph (11) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "September 30, 2007." and inserting "September 30, 2009.".

**SEC. 3004. SUPPLEMENTAL LICENSE FEES.**

In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.

**SEC. 3005. DIGITAL TRANSITION AND PUBLIC SAFETY FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund called the Digital Transition and Public Safety Fund.

(b) DEPOSIT OF AUCTION PROCEEDS.—The Commission shall deposit the proceeds of the auction authorized by section 309(j)(15)(C)(v) of the Communications

Act of 1934 (47 U.S.C. 309(j)(15)(C)(v)) in the Fund as required by item (III) of that section.

(c) PAYMENTS AUTHORIZED.—The Secretary of Commerce or the Secretary's designee shall make payments from the Fund in the following amounts, for the following programs, and in the following order:

(1) $3,000,000,000 for a program to assist consumers in the purchase of converter boxes that convert a digital television signal to an analog television signal, and any amounts unexpended or unobligated at the conclusion of the program shall be used for the program described in paragraph (3).

(2) $200,000,000 for a program to convert low-power television stations and television translator stations from analog to digital, and any amounts unexpended or unobligated at the conclusion of the program shall be used for the program described in paragraph (3).

(3) $1,250,000,000 for a program to facilitate emergency communications, of which $1,000,000,000 shall be used for an interoperability fund and $250,000,000 shall be used to implement a national alert system, of which $50,000,000 shall be used for tsunami warning and coastal vulnerability programs.

(4) $250,000,000 for a program to implement the ENHANCE 911 Act of 2004 (47 U.S.C. 942 note).

(5) $200,000,000 for a program to provide assistance to coastal States and Indian tribes affected by hurricanes and other coastal disasters.

(d) TRANSFER OF AMOUNT TO TREASURY.—On October 2, 2009, Secretary shall transfer $5,000,000,000 from the Fund to the general fund of the Treasury.

(e) OBLIGATION TIME PERIOD.—The amounts payable from the Fund under subsection (c) shall be obligated no later than September 14, 2010.

(f) EXCESS PROCEEDS USED FOR DEFICIT REDUCTION.—If the proceeds of the auction authorized by section 309(j)(15)(C)(v) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(C)(v)) exceed the sum of the payments under subsection (c), the transfer under subsection (d), and any amount made available under section 3006, the excess in the Fund shall be transferred to and deposited in the general fund of the Treasury as miscellaneous receipts.

**SEC. 3006. ESSENTIAL AIR SERVICE PROGRAM.**

(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code,

equals or exceeds $110,000,000 for fiscal year 2006, 2007, 2008, 2009, or 2010, then the Secretary of Commerce shall make $15,000,000 available from the Digital Transition and Public Safety Fund available to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

(1) appropriated for that fiscal year; or

(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

# TITLE IV—ENERGY AND NATURAL RESOURCES

**SEC. 401. OIL AND GAS LEASING PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means the area identified as the Coastal Plain on the map prepared by the United States Geological Survey, entitled ''Arctic National Wildlife Refuge 1002 Coastal Plain Area'', dated September

2005, and on file with the United States Geological Survey.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(b) PROGRAM.—

(1) IN GENERAL.—Congress—

(A) authorizes the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain; and

(B) directs the Secretary to take such actions as are necessary to—

(i) establish and implement an environmentally sound competitive oil and gas leasing program to carry out the activities authorized under subparagraph (A); and

(ii) conduct 2 lease sales before October 1, 2010.

(2) ADMINISTRATION.—The Secretary shall administer this section through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, production, and transportation activities on the Coastal Plain are carried out in a manner that will ensure the receipt of fair

market value by the public for the mineral resources to be leased.

(c) 2 LEASE SALES BEFORE FISCAL YEAR 2011.—

(1) IN GENERAL.—In order to enable the Secretary to hold 2 lease sales before October 1, 2010, this subsection shall apply with respect to the oil and gas leasing program established by the Secretary pursuant to this section.

(2) PURPOSES.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and amendments made by that Act, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination of compatibility.

(3) PRELEASE ACTIVITIES.—The Final Legislative Environmental Impact Statement on the Coastal Plain dated April 1987 and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy

the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate regulations for the establishment of the leasing program authorized by this section before the conduct of the first lease sale.

(4) PREFERRED ACTION.—

(A) NONLEASING ALTERNATIVES.—With respect to any environmental impact statement prepared by the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any lease sale conducted under the leasing program authorized by this section, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of those courses of action.

(B) LEASING ALTERNATIVES.—The Secretary shall only identify a preferred action for leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for the preferred action and leasing alternative.

(C) DEADLINE.—The identification and related analyses required by subparagraph (B) shall be completed within 18 months after the date of enactment of this Act.

(D) PUBLIC COMMENTS.—The Secretary shall only consider public comments that are filed within 30 days after publication of an environmental analysis.

(E) COMPLIANCE.—Compliance with this paragraph satisfies all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) for the analysis and consideration of the environmental effects of proposed leasing under this section.

(5) EXPEDITED JUDICIAL REVIEW.—

(A) VENUE; DEADLINE.—Any complaint seeking judicial review of this section or any action of the Secretary under this section shall be filed in the United States Court of Appeals for the District of Columbia—

(i) within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after that period,

within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(B) SCOPE.—Judicial review of a decision of the Secretary to conduct a lease sale under this section (including the environmental analysis of the decision) shall be—

(i) limited to whether the Secretary has complied with this section; and

(ii) based on the administrative record of that decision.

(d) RECEIPTS.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty receipts derived from oil and gas leasing and operations authorized under this section—

(1) 50 percent shall be paid to the State of Alaska; and

(2) the balance shall be deposited into the Treasury as miscellaneous receipts.

(e) RIGHTS-OF-WAY.—For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas

shall be considered to be established incident to the management of the Coastal Plain under this section.

(f) MAXIMUM SURFACE ACREAGE.—In administering this section, the Secretary shall ensure that the maximum quantity of surface acreage covered by production and support facilities (including airstrips and any area covered by gravel berms or piers for support of pipelines) does not exceed 2,000 acres on the Coastal Plain.

# TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

**SEC. 5001. TECHNICAL CORRECTIONS TO SAFETEA–LU.**

(a)(1) Notwithstanding any other provision of law, the amount of $639,000,000 described in section 1102(b)(10) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1144), shall be considered to be—

(A) for fiscal year 2006 only, $631,000,000; and

(B) for fiscal year 2007 only, $647,000,000.

(2) Notwithstanding any other provision of law, the amount of $2,639,000,000 described in section 1102(c)(6) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1144), shall be considered to be—

(A) for fiscal year 2006 only, $2,631,000,000; and

(B) for fiscal year 2007 only, $2,647,000,000.

(b) Section 4409 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1144) is amended—

(1) by striking ''Section'' and inserting the following:

''(a) IN GENERAL.—Section''; and

(2) by adding at the end the following:

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2008.''.

# TITLE VI—COMMITTEE ON FINANCE

**SEC. 6000. AMENDMENTS TO SOCIAL SECURITY ACT.**

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO THE SECRETARY.—In this title, the term ''Secretary'' means the Secretary of Health and Human Services.

# Subtitle A—Medicaid

## CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS UNDER MEDICAID

**SEC. 6001. PHARMACY REIMBURSEMENT.**

(a) DEFINITION OF AVERAGE MANUFACTURER PRICE.—

(1) IN GENERAL.—Section 1927(k)(1) (42 U.S.C. 1396r–8(k)(1)) is amended—

(A) in the paragraph heading, by striking ''PRICE'' and inserting ''PRICE; WEIGHTED AVERAGE MANUFACTURER PRICE'';

(B) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term''; and

(C) by adding at the end the following:

''(B) CALCULATION REQUIREMENTS.—For purposes of subparagraph (A), the average manufacturer price shall be calculated according to the following:

''(i) SALES EXEMPTED FROM COMPUTATION.—Without regard to—

''(I) sales exempt from inclusion in the determination of best price under subsection (c)(1)(C)(i);

1 "(II) such other sales as the Sec-
2 retary identifies as sales to an entity
3 that are merely nominal in amount
4 under subsection (c)(1)(C)(ii)(III);
5 and
6 "(III) bona fide service fees (as
7 defined in subparagraph (E)) that are
8 paid by a manufacturer to an entity,
9 that represent fair market value for a
10 bona fide service, and that are not
11 passed on in whole or in part to a cli-
12 ent or customer of an entity.
13 "(ii) SALE PRICE NET OF DIS-
14 COUNTS.—By including the following:
15 "(I) Cash discounts and volume
16 discounts.
17 "(II) Free goods that are contin-
18 gent upon any purchase requirement
19 or agreement.
20 "(III) Sales at a nominal price
21 that are contingent upon any pur-
22 chase requirement or agreement.
23 "(IV) Chargebacks, rebates pro-
24 vided to a pharmacy (including a mail
25 order pharmacy but excluding a phar-

macy benefit manager), or any other direct or indirect discounts.

"(V) Any other price concessions, which may be based on recommendations of the Inspector General of the Department of Health and Human Services, that would result in a reduction of the cost to the purchaser, but only if the Secretary provides notice of the Secretary's intent to include such price concessions in accordance with section 553 of title 5, United States Code.

"(C) WEIGHTED AVERAGE MANUFACTURER PRICE.—The term 'weighted average manufacturer price' means, with respect to a rebate period and multiple source drug, the volume-weighted average of the average manufacturer prices reported under subsection (b)(3)(A)(i)(I) for all drug products described in paragraph (7)(A)(i) that are therapeutically equivalent and bioequivalent forms of the drug, determined by—

"(i) computing the sum of the products (for each National Drug Code assigned to such drug products) of—

"(I) the average manufacturer price; and

"(II) the total number of units reported sold under subsection (b)(3)(A)(i)(I); and

"(ii) dividing the sum determined under clause (i) by the sum of the total number of units under clause (i)(II) for all National Drug Codes assigned to such drug products.

"(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

"(i) IN GENERAL.—For purposes of clauses (i)(II) and (ii)(III) of subparagraph (B), only sales by a manufacturer of covered outpatient drugs that are single source drugs, innovator multiple source drugs, or authorized generic drugs at nominal prices to the following shall be considered to be sales at a nominal price or merely nominal in amount:

1 "(I) A covered entity described in
2 section 340B(a)(4) of the Public
3 Health Service Act.
4 "(II) An intermediate care facil-
5 ity for the mentally retarded.
6 "(III) A State-owned or operated
7 nursing facility.
8 "(IV) Any other facility or entity
9 that the Secretary determines is a
10 safety net provider to which sales of
11 such drugs at a nominal price would
12 be appropriate based on the following
13 factors:
14 "(aa) The type of facility.
15 "(bb) The services provided
16 by the facility.
17 "(cc) The patient population
18 served by the facility.
19 "(dd) The number of other
20 facilities eligible to purchase at
21 nominal prices in the same serv-
22 ice area.
23 "(ii) NONAPPLICATION.—Clause (i)
24 shall not apply with respect to sales by a
25 manufacturer at a nominal price of covered

outpatient drugs that are single source drugs, innovator multiple source drugs, or authorized generic drugs pursuant to a master agreement under section 8126 of title 38, United States Code.

"(E) BONA FIDE SERVICE FEES.—For purposes of subparagraph (B)(i)(III), the term 'bona fide service fees' means expenses that are for an itemized service actually performed by an entity on behalf of a manufacturer that would have generally been paid for by the manufacturer at the same rate had these services been performed by another entity.".

(2) CONFORMING AMENDMENTS.—Section 1927(b)(3)(A)(i) (42 U.S.C. 1396r–8(b)(3)(A)(i)), as amended by section 6003(a), is amended—

(A) in subclause (I)—

(i) by inserting "and the total number of units sold" after "(as defined in subsection (k)(1))"; and

(ii) by striking "and" at the end;

(B) in subclause (II), by adding "and" at the end; and

(C) by adding at the end the following:

"(III) information and data on any sales that were made during such period at a nominal price, including, with respect to each such sale, the purchaser, the name of the product, the amount or number of units of the product sold at a nominal price, and the nominal price paid;".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on January 1, 2006.

(B) EXCEPTION.—Subparagraph (D) of section 1927(k)(1) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)) (as added by paragraph (1)) shall not apply with respect to a contract in effect on the date of enactment of this Act pursuant to which pharmaceutical products are or may be available at nominal prices until the expiration date of such contract, or October 1, 2006, whichever is earlier, and shall apply to sales made, and rebate periods beginning, on or after that date.

1 (b) UPPER PAYMENT LIMIT FOR INGREDIENT COST
2 OF COVERED OUTPATIENT DRUGS.—
3 (1) IN GENERAL.—Section 1927(e) (42 U.S.C.
4 1396r–8(e)) is amended to read as follows:
5 ''(e) PHARMACY REIMBURSEMENT LIMITS.—
6 ''(1) UPPER PAYMENT LIMIT FOR INGREDIENT
7 COST OF COVERED OUTPATIENT DRUGS.—No Fed-
8 eral financial participation shall be available for pay-
9 ment for the ingredient cost of a covered outpatient
10 drug that exceeds the upper payment limit for that
11 drug established under paragraph (2).
12 ''(2) UPPER PAYMENT LIMIT.—
13 ''(A) IN GENERAL.—Except as provided in
14 subparagraphs (B) and (C), the upper payment
15 limit established under this paragraph for the
16 ingredient cost of a—
17 ''(i) single source drug, is 105 percent
18 of the average manufacturer price for that
19 drug; and
20 ''(ii) multiple source drug, is 115 per-
21 cent of the weighted average manufacturer
22 price for that drug.
23 ''(B) EXCEPTION FOR INITIAL SALES PERI-
24 ODS.—

"(i) IN GENERAL.—In the case of a covered outpatient drug during an initial sales period (not to exceed 2 calendar quarters) in which data on sales for the drug is not sufficiently available from the manufacturer to compute the average manufacturer price or the weighted average manufacturer price, the Secretary shall establish the upper payment limit for the ingredient cost of such drug to apply only during such period based on the following:

"(I) In the case of a single source drug, such upper payment limit shall be the wholesale acquisition cost for the drug.

"(II) In the case of a first noninnovator multiple source drug, such upper payment limit shall be the average manufacturer price for the single source drug that is rated as therapeutically equivalent and bioequivalent to such drug, minus 10 percent.

"(III) In the case of a subsequent noninnovator multiple source drug—

"(aa) if the Secretary has sufficient data to determine the weighted average manufacturer price for the drug, such upper payment limit shall be the weighted average manufacturer price determined for the therapeutically equivalent and bioequivalent form of the drug; and

"(bb) if the Secretary does not have sufficient data to determine the weighted average manufacturer price for the drug, such upper payment limit shall be the average manufacturer price for the single source drug that is rated as therapeutically equivalent and bioequivalent to the drug, minus 10 percent.

"(ii) DEFINITION OF WHOLESALE ACQUISITION COST.—For purposes of clause (i), the term 'wholesale acquisition cost' means, with respect to a drug or biological, the manufacturer's list price for the drug or biological to wholesalers or direct pur-

chasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological pricing data.

"(C) EXCEPTION FOR CERTAIN INNOVATOR MULTIPLE SOURCE DRUGS.—In the case of an innovator multiple source drug that a prescribing health care provider determines is necessary for treatment of a condition and that a noninnovator multiple source drug would not be as effective for the individual or would have adverse effects for the individual or both, and for which the provider obtains prior authorization in accordance with a program described in subsection (d)(5), the upper payment limit for the innovator multiple source drug shall be 105 percent of the average manufacturer price for such drug.

"(D) UPDATES; AVAILABILITY OF DATA.—

"(i) FREQUENCY OF DETERMINATION.—The Secretary shall update the upper payment limits applicable under this

1 paragraph on a quarterly basis, taking into
2 account the most recent data collected for
3 purposes of determining such limits and
4 the Food and Drug Administration's most
5 recent publication of 'Approved Drug
6 Products with Therapeutic Equivalence
7 Evaluations'.

8 "(ii) COLLECTION OF DATA.—

9 "(I) IN GENERAL.—Beginning on
10 January 1, 2006, the Secretary shall
11 collect data with respect to the aver-
12 age manufacturer prices and volume
13 of sales of covered outpatient drugs
14 (or, in the case of covered outpatient
15 drugs that are first marketed after
16 such date, beginning with the first
17 quarter during which the drugs are
18 first marketed).

19 "(II) DATA REPORTED FOR PUR-
20 POSES OF DETERMINING WEIGHTED
21 AVERAGE MANUFACTURER PRICE.—
22 Insofar as there is a lag in the report-
23 ing of the information on rebates and
24 chargebacks so that adequate data are
25 not available on a timely basis to up-

date the weighted average manufacturer price for a multiple source drug, the manufacturer of such drug shall apply a methodology based on a 12-month rolling average for the manufacturer to estimate costs attributable to rebates and charge backs for such drug. For years after 2006, the Secretary shall establish a uniform methodology to estimate and apply such costs.

"(iii) AVAILABILITY OF DATA TO STATES.—Notwithstanding subsection (b)(3)(D), beginning with the first quarter of fiscal year 2006 for which data is available, and for each fiscal year quarter thereafter, the Secretary shall make available to States the most recently reported average manufacturer prices for single source drugs and weighted average manufacturer prices for multiple source drugs.

"(E) AUTHORITY TO ENTER CONTRACTS.—The Secretary may enter into contracts with appropriate entities to determine average manufacturer prices, volume, and other

1 data necessary to calculate the upper payment
2 limit for a covered outpatient drug established
3 under this subsection and to calculate that pay-
4 ment limit.
5 ''(3) STATE USE OF PRICE DATA.—
6 ''(A) DISTRIBUTION OF DATA.—The Sec-
7 retary shall devise and implement a means for
8 electronic distribution of the most recently cal-
9 culated weighted average manufacturer price
10 and the average manufacturer price for all cov-
11 ered outpatient drugs to each State agency des-
12 ignated under section 1902(a)(5) with responsi-
13 bility for the administration or supervision of
14 the administration of the State plan under this
15 title.
16 ''(B) AUTHORITY TO ESTABLISH PAYMENT
17 RATES BASED ON DATA.—A State may use the
18 price data received in accordance with subpara-
19 graph (A) in establishing payment rates for the
20 ingredient costs and dispensing fees for covered
21 outpatient drugs dispensed to individuals eligi-
22 ble for medical assistance under this title.
23 ''(4) REASONABLE DISPENSING FEES RE-
24 QUIRED.—

"(A) IN GENERAL.—A State which provides medical assistance for covered outpatient drugs shall pay a dispensing fee for each covered outpatient drug for which Federal financial participation is available in accordance with this section in accordance with the following:

"(i) The dispensing fee for a noninnovator multiple source drug shall be greater than the dispensing fee for an innovator multiple source drug that is rated as therapeutically equivalent and bioequivalent to such drug.

"(ii) In establishing such dispensing fees, the State takes into consideration such requirements as the Secretary shall, by regulation, establish, and which shall include consideration of the following:

"(I) Any reasonable costs associated with a pharmacist's time in checking for information about an individual's coverage or performing quality assurance activities.

"(II) Costs associated with—

1 "(aa) the measurement or
2 mixing of a covered outpatient
3 drug;
4 "(bb) filling the container
5 for the drug;
6 "(cc) physically providing
7 the completed prescription to an
8 individual enrolled in the pro-
9 gram under this title;
10 "(dd) delivery;
11 "(ee) special packaging;
12 "(ff) overhead related to
13 maintaining the facility and
14 equipment necessary to operate
15 the pharmacy, including the sala-
16 ries of pharmacists and other
17 pharmacy workers;
18 "(gg) geographic factors
19 that impact operational costs;
20 "(hh) patient counseling;
21 and
22 "(ii) the dispensing of drugs
23 requiring specialty pharmacy care
24 management services (as deter-
25 mined by the Secretary in ac-

cordance with subparagraph (B)).

"(B) DETERMINATION OF DRUGS REQUIRING SPECIALTY PHARMACY CARE MANAGEMENT SERVICES.—

"(i) IN GENERAL.—Not later than 15 months after the date of enactment of the Deficit Reduction Omnibus Reconciliation Act of 2005, the Secretary shall establish a list of covered outpatient drugs which require specialty pharmacy care management services that includes only those drugs for which the Secretary determines that access by individuals eligible for medical assistance under this title would be seriously impaired without the provision of specialty pharmacy care management services.

"(ii) SPECIALTY PHARMACY CARE MANAGEMENT SERVICES DEFINED.—For purposes of this paragraph, the term 'specialty pharmacy care management services' means services provided in connection with the dispensing or administration of a covered outpatient drug which the Secretary determines requires—

1 "(I) significant caregiver and
2 provider contact and education re-
3 garding the relevant disease state,
4 prevention, treatment, drug indica-
5 tions, benefits, risks, complications,
6 use, pharmacy counseling, and expla-
7 nation of existing provider guidelines;
8 "(II) patient compliance services,
9 including coordination of provider vis-
10 its with drug delivery, compliance with
11 a drug dosing regimen, mailing or
12 telephone call reminders, compiling
13 compliance data, and assisting pro-
14 viders in developing compliance pro-
15 grams; or
16 "(III) tracking services, including
17 developing referral processes with pro-
18 viders, screening referrals, and track-
19 ing patient weight for dosing require-
20 ments.
21 "(iii) QUARTERLY UPDATES.—The
22 Secretary shall update the list of covered
23 outpatient drugs requiring specialty phar-
24 macy management services on a quarterly
25 basis.

(2) CONFORMING AMENDMENTS.—

(A) Section 1927(b)(3)(D)(i) (42 U.S.C. 1396r–8(b)(3)(D)(i)) is amended by inserting ''(including with respect to the determination of weighted average manufacturer prices under subsection (e)(2) and the distribution of weighted average manufacturer prices and average manufacturer prices for covered outpatient drugs to States under subsection (e)(3))'' after ''this section''.

(B) Section 1903(i)(10) (42 U.S.C. 1396b(i)(10)) is amended—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking ''or'' at the end and inserting ''and''; and

(iii) by adding at the end the following:

''(C) with respect to any amount expended for the ingredient cost of a covered outpatient drug that exceeds the upper payment limit for that drug established under section 1927(e); or''.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect with respect to a State on the later of—

(A) January 1, 2007; or

(B) the date that is 6 months after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(c) INTERIM UPPER PAYMENT LIMIT.—

(1) IN GENERAL.—With respect to a State program under title XIX of the Social Security Act, during the period that begins on January 1, 2006, and ends on the effective date applicable to such State under subsection (b)(3), the Secretary shall—

(A) apply the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations to the State by substituting ''125 percent'' for ''150 percent''; and

(B) in the case of covered outpatient drugs under title XIX of such Act that are marketed as of July 1, 2005, and are subject to Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations, use average wholesale prices, direct prices, and wholesale acquisition costs for such drugs that do not exceed such prices and costs as of such date to determine the Federal upper

payment limits that apply under section 447.332 of title 42, Code of Federal Regulations to such drugs during such period.

(2) APPLICATION TO NEW DRUGS.—Paragraph (1)(A) shall apply to a covered outpatient drug under title XIX of the Social Security Act that is first marketed after July 1, 2005, but before January 1, 2007, and is subject to the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations.

**SEC. 6002. INCREASE IN REBATES FOR COVERED OUTPATIENT DRUGS.**

(a) INCREASE IN BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r–8(c)(1)(B)(i)) is amended—

(1) in subclause (IV), by striking ''and'' after the semicolon;

(2) in subclause (V)—

(A) by inserting ''and before January 1, 2006,'' after ''1995,''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

"(VI) after December 31, 2005, is 17 percent.".

(b) INCREASE IN REBATE FOR OTHER DRUGS.—Section 1927(c)(3)(B) (42 U.S.C. 1396r–8(c)(3)(B)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii)—

(A) by inserting "and before January 1, 2006," after "December 31, 1993,"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) after December 31, 2005, is 17 percent.".

**SEC. 6003. IMPROVED REGULATION OF AUTHORIZED GENERIC DRUGS.**

(a) INCLUSION WITH OTHER REPORTED AVERAGE MANUFACTURER AND BEST PRICES.—Section 1927(b)(3)(A) (42 U.S.C. 1396r–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) not later than 30 days after the last day of each rebate period under the agreement—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for each covered outpatient drug for the rebate period under the agreement (including for each such drug that is an authorized generic drug or is any other drug sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

"(II) for each single source drug, innovator multiple source drug, authorized generic drug, and any other drug sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drug for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are authorized generic drugs or are any other drugs sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) CONFORMING AMENDMENTS.—Section 1927 of such Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by striking ''or innovator multiple source drug of a manufacturer'' and inserting '', innovator multiple source drug, or authorized generic drug of a manufacturer, or any other drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act''; and

(B) in clause (ii)—

(i) in subclause (II), by striking ''and'' at the end;

(ii) in subclause (III), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(IV) in the case of a manufacturer that approves, allows, or otherwise permits an authorized generic drug or any other drug of the manufacturer to be sold under a new drug

application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall be inclusive of the lowest price for such authorized generic or other drug available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i).''; and

(2) in subsection (k)—

(A) in paragraph (1), as amended by section 6001(a)(1)(B), by adding at the end the following:

''(F) INCLUSION OF AUTHORIZED GENERIC DRUGS.—In the case of a manufacturer that approves, allows, or otherwise permits an authorized generic drug or any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such

term shall be inclusive of the average price paid for such authorized generic or other drug.''; and

(B) by adding at the end the following:

''(10) AUTHORIZED GENERIC DRUG.—The term 'authorized generic drug' means a listed drug (as that term is used in section 505(j) of the Federal Food, Drug, and Cosmetic Act) that—

''(A) has been approved under section 505(c) of such Act; and

''(B) is marketed, sold, or distributed directly or indirectly to the retail class of trade under a different labeling, packaging (other than repackaging as the listed drug in blister packs, unit doses, or similar packaging for use in institutions), product code, labeler code, trade name, or trade mark than the listed drug.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2006.

**SEC. 6004. COLLECTION OF REBATES FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.**

(a) IN GENERAL.—Section 1927(a) (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following:

"(7) REQUIREMENT FOR SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN-ADMINISTERED DRUGS.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is physician administered (as determined by the Secretary), and that is administered on or after January 1, 2006, the State shall provide for the submission of such utilization data and coding (including both J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary in order to secure rebates for payments made under this title.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) (42 U.S.C. 1396b(i)(10)), as amended by section 6001(b)(2)(B), is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(D) with respect to covered outpatient drugs described in section 1927(a)(7), unless information with respect to utilization data and coding on such drugs is submitted in accordance with that section; or".

# CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

**SEC. 6011. REFORM OF MEDICAID ASSET TRANSFER RULES.**

(a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF INELIGIBILITY.—Section 1917(c)(1)(E) (42 U.S.C. 1396p(c)(1)(E)) is amended by adding at the end the following:

''(iv) A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets.''.

(b) AUTHORITY FOR STATES TO ACCUMULATE MULTIPLE TRANSFERS INTO 1 PENALTY PERIOD.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by adding at the end the following:

''(F) Notwithstanding the preceding provisions of this paragraph, in the case of an individual (or individual's spouse) who disposes of multiple assets in more than 1 month for less than fair market value on or after the applicable look-back date specified in subparagraph (B), a State may determine the period of ineligibility applicable to such individual under this paragraph by—

''(i) treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months on or

after the look-back date specified in subparagraph (B) as 1 transfer for purposes of clause (i) or (ii) (as the case may be) of subparagraph (E); and

"(ii) beginning such period on the earliest date which would apply under subparagraph (D) to any of such transfers.".

(c) INCLUSION OF TRANSFER OF CERTAIN NOTES AND LOANS ASSETS.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(G) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes funds used to purchase a promissory note, loan, or mortgage unless such note, loan, or mortgage—

"(i) has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration);

"(ii) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

"(iii) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not satisfy the requirements of clauses (i) through

(iii), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the individual's application for medical assistance for services described in subparagraph (C).''.

(d) TREATMENT OF ANNUITIES.—

(1) INCLUSION OF TRANSFERS TO PURCHASE BALLOON ANNUITIES.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)), as amended by subsection (c), is amended by adding at the end the following:

''(H) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes an annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term care services under this title unless—

''(i) the annuity is—

''(I) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

''(II) purchased with proceeds from—

''(aa) an account or trust described in subsection (a), (c), (p) of section 408 of such Code;

"(bb) a simplified employee pension (within the meaning of section 408(k) of such Code); or

"(cc) a Roth IRA described in section 408A of such Code; or

"(ii) the annuity—

"(I) is irrevocable and nonassignable;

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration); and

"(III) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.".

(2) REQUIREMENT FOR STATE TO BE NAMED AS A REMAINDER BENEFICIARY.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)), as amended by paragraph (1), is amended by adding at the end the following:

"(I) For purposes of this paragraph, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless the State is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this title or is named as such a beneficiary in the second position after the community

spouse and such spouse does not dispose of any such remainder for less than fair market value.''.

(3) INCLUSION OF CERTAIN ANNUITIES IN AN ESTATE.—Section 1917(b)(4) (42 U.S.C. 1396p(b)(4)) is amended—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) shall include an annuity unless the annuity was purchased from a financial institution or other business that sells annuities in the State as part of its regular business.''.

(e) INCLUSION OF TRANSFERS TO PURCHASE LIFE ESTATES.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)), as amended by subsection (d)(2), is amended by adding at the end the following:

''(J) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for a period of at least 1 year after the date of the purchase.

1 (f) PROTECTION AGAINST UNDUE HARDSHIP.—Sec-
2 tion 1917(c) (42 U.S.C. 1396p(c)) is amended by adding
3 at the end the following:
4 "(6) For purposes of paragraph (2)(D) and sub-
5 section (d)(5), the procedures established by the State in
6 accordance with standards specified by the Secretary shall
7 provide for—
8 "(A) notice, before application of the provisions
9 of paragraph (1) or subsection (d), to an individual
10 who is an applicant for medical assistance under this
11 title who would be subject to such a penalty under
12 such provisions that an undue hardship exception ex-
13 ists;
14 "(B) a timely process before the imposition of
15 a penalty for determining whether an undue hard-
16 ship waiver will be granted for the individual;
17 "(C) a process under which an adverse deter-
18 mination can be appealed; and
19 "(D) application of criteria that specifies that
20 an undue hardship exists when application of the
21 provisions of paragraph (1) or subsection (d) would
22 deprive the individual of medical care such that the
23 individual's health or life would be endangered or
24 when the application of such provisions would de-

prive the individual of food, clothing, shelter, or other necessities of life.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to payments under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters beginning on or after the date of enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) EXCEPTIONS.—The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before the date of enactment;

(B) with respect to assets disposed of on or before the date of enactment of this Act; or

(C) with respect to trusts established on or before the date of enactment of this Act.

(3) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional

requirements imposed by the amendments made by a provision of this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 6012. STATE LONG-TERM CARE PARTNERSHIPS.**

(a) EXPANSION OF STATE LONG-TERM CARE PARTNERSHIPS.—

(1) IN GENERAL.—Section 1917(b)(1)(C)(ii) (42 U.S.C. 1396p(b)(1)(C)(ii)) is amended to read as follows:

"(ii) Clause (i) shall not apply in the case of an individual who received medical assistance under—

"(I) a Qualified State Long-Term Care Insurance Partnership (as defined in paragraph (5)); or

"(II) under a State plan of a State which—

"(aa) had a State plan amendment approved as of May 14, 1993, which provided for the disregard of any assets or resources to the extent that payments are made under a long-term care insurance policy or because an individual has received (or is entitled to receive) benefits under a long-term care insurance policy; and

"(bb) has a State plan amendment which satisfies the requirements of subparagraphs (B) through (G) of paragraph (5) in the case of any long-term care insurance policy sold under such plan amendment on or after the date that is 2 years after the date of enactment of such paragraph.

For purposes of this clause and paragraphs (5) and (6), the term 'long-term care insurance policy' includes a certificate issued under a group insurance contract.".

(2) SATISFACTION OF MINIMUM FEDERAL STANDARDS, TAX QUALIFICATIONS, INFLATION PROTECTION, AND OTHER REQUIREMENTS FOR LONG-

1 TERM CARE INSURANCE PARTNERSHIPS.—Section
2 1917(b) (42 U.S.C. 1396p(b)) is amended by insert-
3 ing at the end the following:
4 "(5) The term 'Qualified State Long-Term
5 Care Insurance Partnership' means a program of-
6 fered in a State with an approved State plan amend-
7 ment that provides for the following:
8 "(A) Subject to the limit specified in sub-
9 paragraph (D), the disregard of any assets or
10 resources in an amount equal to the amount of
11 payments made to, or on behalf of, an indi-
12 vidual who is a beneficiary under any long-term
13 care insurance policy sold under such plan
14 amendment.
15 "(B) A requirement that the State will
16 treat benefits paid under any long-term care in-
17 surance policy sold under a plan amendment of
18 another State that maintains a Qualified Long-
19 Term Care Insurance Partnership or is de-
20 scribed in subsection (b)(1)(C)(ii)(II) the same
21 as the State treats benefits paid under such a
22 policy sold under the State's plan amendment.
23 "(C) A requirement that any long-term
24 care insurance policy sold under such plan
25 amendment—

"(i) be a qualified long-term care insurance contract within the meaning of section 7702B(b) of the Internal Revenue Code of 1986; and

"(ii) meet the requirements described in paragraph (6).

"(D) A requirement that any such policy sold under the State plan amendment shall provide for—

"(i) compound annual inflation protection of at least 5 percent; and

"(ii) asset protection that does not exceed $250,000.

The dollar amount specified in the preceding sentence shall be increased, beginning with 2007, from year to year based on the percentage increase in the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, rounded to the nearest $100.

"(E) A requirement that an insurer may rescind a long-term care insurance policy sold under such State plan amendment that has been in effect for at least 2 years or deny an

otherwise valid long-term care insurance claim under such a policy only upon a showing of misrepresentation that is material to the acceptance of coverage, pertains to the claim made, and could not have been known by the insurer at the time the policy was sold.

"(F) A requirement that any individual who sells such a policy receive training, and demonstrate evidence of an understanding of, the policy and how the policy relates to other public and private coverage of long-term care.

"(G) A requirement that the issuer of any such policy report—

"(i) to the Secretary, such information or data as the Secretary may require; and

"(ii) to the State, the information or data reported to the Secretary (if any), the information or data required under the minimum reporting requirements developed under section 6012(b)(2)(B) of the Deficit Reduction Omnibus Reconciliation Act of 2005, and such additional information or data as the State may require.

For purposes of applying this paragraph, if a long-term care insurance policy is exchanged for another such policy, the date coverage became effective under the first policy shall determine when coverage first becomes effective.

"(6)(A) For purposes of subparagraph (C)(ii) of paragraph (5), the requirements of this paragraph are met if a long-term care insurance policy sold under a plan amendment described in that paragraph meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

"(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

"(III) Section 6C (relating to extension of benefits).

"(IV) Section 6D (relating to continuation or conversion of coverage).

1 "(V) Section 6E (relating to dis-
2 continuance and replacement of policies).
3 "(VI) Section 7 (relating to uninten-
4 tional lapse).
5 "(VII) Section 8 (relating to disclo-
6 sure), other than sections 8F, 8G, 8H, and
7 8I thereof.
8 "(VIII) Section 9 (relating to required
9 disclosure of rating practices to consumer).
10 "(IX) Section 11 (relating to prohibi-
11 tions against post-claims underwriting).
12 "(X) Section 12 (relating to minimum
13 standards).
14 "(XI) Section 14 (relating to applica-
15 tion forms and replacement coverage).
16 "(XII) Section 15 (relating to report-
17 ing requirements).
18 "(XIII) Section 22 (relating to filing
19 requirements for marketing).
20 "(XIV) Section 23 (relating to stand-
21 ards for marketing), including inaccurate
22 completion of medical histories, other than
23 paragraphs (1), (6), and (9) of section
24 23C.

"(XV) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XVI) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(XVII) Section 29 (relating to standard format outline of coverage).

"(XVIII) Section 30 (relating to requirement to deliver shopper's guide).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits.

"(IV) Section 6F (relating to right to return).

"(V) Section 6G (relating to outline of coverage).

"(VI) Section 6H (relating to requirements for certificates under group plans).

"(VII) Section 6J (relating to policy summary).

"(VIII) Section 6K (relating to monthly reports on accelerated death benefits).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) DETERMINATION.—For purposes of this paragraph, the determination of whether any requirement of a model regulation or the

1 model Act has been met shall be made by the
2 Secretary.''.
3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection take effect on October 1, 2007,
5 and apply to long-term care insurance policies sold
6 on or after that date.
7 (b) DEVELOPMENT OF UNIFORM STANDARDS AND
8 RECOMMENDATIONS.—
9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act, the Secretary, in
11 consultation with the National Association of Insur-
12 ance Commissioners, issuers of long-term care insur-
13 ance policies, States with experience with long-term
14 care insurance partnership plans, other States, and
15 representatives of consumers of long-term care in-
16 surance policies shall develop the uniform standards
17 described in paragraph (2) and submit recommenda-
18 tions to Congress with respect to the issues identi-
19 fied in paragraph (3).
20 (2) UNIFORM STANDARDS.—The uniform
21 standards described in this paragraph are the fol-
22 lowing:
23 (A) RECIPROCITY.—Standards for ensur-
24 ing that long-term care insurance policies
25 issued under a State long-term care insurance

partnership under section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)) are portable to other States with such a partnership.

(B) MINIMUM REPORTING REQUIREMENTS.—Standards for minimum reporting requirements for issuers of long-term care insurance policies under such State long-term care insurance partnerships that shall specify the data and information that each such issuer shall report to the State with which it has such a partnership. The requirements developed in accordance with this subparagraph shall specify the type and format of the data and information to be reported and the frequency with which such reports are to be made.

(C) SUITABILITY.—Suitability standards for determining whether a long-term care insurance policy is appropriate for the needs of an applicant, based on guidance of the National Association of Insurance Commissioners regarding suitability.

(3) RECOMMENDATIONS.—The recommendations described in this paragraph are the following:

(A) INCONTESTABILITY.—Recommendations regarding whether the requirements relating to incontestability for long-term care insurance policies sold under a State long-term care insurance partnership program under section 1917(b)(1)(C)(ii) of the Social Security Act should be modified based on guidance of the National Association of Insurance Commissioners regarding incontestability.

(B) NONFORFEITURE.—Recommendations regarding whether requirements relating to nonforfeiture for issuers of long-term care insurance policies under a State long-term care insurance partnership program under section 1917(b)(1)(C)(ii) of such Act should be modified to reflect changes in an insured's financial circumstances.

(C) INDEPENDENT CERTIFICATION FOR BENEFITS ASSESSMENT.—Recommendations regarding whether uniform standards for requiring benefits assessment evaluations to be conducted by independent entities should be established for issuers of long-term care insurance policies under such a State partnership program and, if so, what such standards should be.

(D) RATING REQUIREMENTS.—Recommendations regarding whether uniform standards for the establishment of, and annual increases in, premiums for long-term care insurance policies sold under such a State partnership program should be established and, if so, what such standards should be.

(E) DISPUTE RESOLUTION.—Recommendations regarding whether uniform standards are needed to ensure fair adjudication of coverage disputes under long-term care insurance policies sold under such a State partnership program and the delivery of the benefits promised under such policies.

(4) STATE REPORTING REQUIREMENTS.—Nothing in paragraph (2)(B) shall be construed as prohibiting a State from requiring an issuer of a long-term care insurance policy sold in the State (regardless of whether the policy is issued under a State long-term care insurance partnership under section 1917(b)(1)(C)(ii) of the Social Security Act) to require the issuer to report information or data to the State that is in addition to the information or data required under the minimum reporting requirements developed under that paragraph.

(c) ANNUAL REPORTS TO CONGRESS.—The Secretary of Health and Human Services shall annually report to Congress on the long-term care insurance partnerships established in accordance with section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)). Such reports shall include analyses of the extent to which such partnerships expand or limit access of individuals to long-term care and the impact of such partnerships on Federal and State expenditures under the Medicare and Medicaid programs.

## CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

### SEC. 6021. ENHANCING THIRD PARTY RECOVERY.

(a) CLARIFICATION OF RIGHT OF RECOVERY AGAINST ANY THIRD PARTY LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", including self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "health mainte-

nance organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service''; and

(2) in subparagraph (G)—

(A) by inserting ''a self-insured plan,'' after ''1974,''; and

(B) by striking ''and a health maintenance organization'' and inserting ''a health maintenance organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service''.

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking ''and'' at the end;

(2) in subparagraph (H), by adding ''and'' after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, health maintenance organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide eligibility and claims payment data with respect to an individual who is eligible for, or is provided, medical assistance under the State plan, upon the request of the State;

"(ii) accept the subrogation of the State to any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service submitted

not later than 3 years after the date of the provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim;".

(c) EFFECTIVE DATE.—Except as provided in section 6026(e), the amendments made by this section take effect on January 1, 2006.

**SEC. 6022. LIMITATION ON USE OF CONTINGENCY FEE ARRANGEMENTS.**

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 104(b) of the QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (Public Law 109–91), is amended—

(1) in paragraph (19), by adding "or" at the end;

(2) by striking the period at the end of paragraph (21) and inserting "; or"; and

(3) by inserting after paragraph (21), the following:

"(22) with respect to any amount expended in connection with a contract or agreement (other than a risk contract under section 1903(m)) between the

State agency under section 1902(a)(5) (or any State or local agency designated by such agency to administer any portion of the State plan under this title) and a consultant or other contractor if the terms of compensation for the consultant or other contractor do not meet the standards established by the Inspector General of the Department of Health and Human Services under section 6022(b) of the Deficit Reduction Omnibus Reconciliation Act of 2005.''.

(b) CONTINGENCY FEE ARRANGEMENT STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Inspector General of the Department of Health and Human Services shall issue standards for the terms of compensation of consultants and other individuals or entities contracting with State agencies (or their designees) administering State Medicaid plans under title XIX of the Social Security Act that ensure prudent purchasing and program integrity with respect to Federal funds. The Inspector General shall annually review and, as necessary, revise such standards to promptly address new compensation arrangements that may present a risk to program integrity under such title.

(c) EFFECTIVE DATE.—Except as provided in section 6026(e), the amendments made by subsection (a) take effect on January 1, 2007.

**SEC. 6023. ENCOURAGING THE ENACTMENT OF STATE FALSE CLAIMS ACTS.**

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by inserting after section 1908A the following:

"STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES

"SEC. 1909. (a) IN GENERAL.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

"(1) The law establishes liability to the State for false or fraudulent claims described in section

3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

"(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31, United States Code.

"(3) The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

"(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

"(5) The law contains provisions that are designed to prevent a windfall recovery for a qui tam relator in the event that the relator files a Federal and State action for the same false or fraudulent claim.

"(c) DEEMED COMPLIANCE.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

"(d) NO PRECLUSION OF BROADER LAWS.—Nothing in this section shall be construed as prohibiting a State

that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.''.

(b) EFFECTIVE DATE.—Except as provided in section 6026(e), the amendments made by this section take effect on January 1, 2007.

**SEC. 6024. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.**

(a) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking ''and'' at the end;

(2) in paragraph (67) by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (67) the following:

''(68) provide that any entity that receives or makes annual payments under the State plan of at least $1,000,000, as a condition of receiving such payments, shall—

"(A) establish written policies, procedures, and protocols for training of all employees of the entity (including management), and of any contractor or agent of the entity, that includes a detailed discussion of the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, procedures, and protocols, detailed provisions and training regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse;

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and

the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(D) require mandatory training for all employees of the entity and of any contractor or agent of the entity, at the time of hiring, with respect to the laws described in subparagraph (A) (including the whistleblower protections under such laws) and the entity's policies and procedures for detecting fraud, waste, and abuse.".

(b) EFFECTIVE DATE.—Except as provided in section 6026(e), the amendments made by subsection (a) take effect on January 1, 2007.

**SEC. 6025. PROHIBITION ON RESTOCKING AND DOUBLE BILLING OF PRESCRIPTION DRUGS.**

(a) IN GENERAL.—Section 1903(i)(10) (42 U.S.C. 1396b(i)), as amended by section 6004(b), is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(E) with respect to any amount expended for reimbursement to a pharmacy under this title for

the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment under this title (other than with respect to a reasonable restocking fee for such drug); or''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

**SEC. 6026. MEDICAID INTEGRITY PROGRAM.**

(a) ESTABLISHMENT OF MEDICAID INTEGRITY PROGRAM; MEDICAID CFO; MEDICAID PROGRAM INTEGRITY OVERSIGHT BOARD.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1936 as section 1938; and

(2) by inserting after section 1935 the following:

''MEDICAID INTEGRITY PROGRAM

''SEC. 1936. (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

1 "(b) ACTIVITIES DESCRIBED.—The activities de-
2 scribed in this subsection are as follows:
3 "(1) Review of the actions of individuals or en-
4 tities furnishing items or services (whether on a fee-
5 for-service, risk, or other basis) for which payment
6 may be made under a State plan approved under
7 this title (or under any waiver of such plan approved
8 under section 1115) to determine whether fraud,
9 waste, or abuse has occurred, is likely to occur, or
10 whether such actions have any potential for resulting
11 in an expenditure of funds under this title in a man-
12 ner which is not intended under the provisions of
13 this title.
14 "(2) Audit of claims for payment for items or
15 services furnished, or administrative services ren-
16 dered, under a State plan under this title, includ-
17 ing—
18 "(A) cost reports;
19 "(B) consulting contracts; and
20 "(C) risk contracts under section 1903(m).
21 "(3) Identification and recovery of overpay-
22 ments to individuals or entities receiving Federal
23 funds under this title.
24 "(4) Education of providers of services, man-
25 aged care entities, beneficiaries, and other individ-

uals with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

"(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:

"(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

"(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.

"(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

"(D) The entity meets such other requirements as the Secretary may impose.

"(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(B) Competitive procedures to be used—

"(i) when entering into new contracts under this section;

"(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(iii) at any other time considered appropriate by the Secretary.

"(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the

1 performance requirements established in the
2 current contract.
3 The Secretary may enter into such contracts without
4 regard to final rules having been promulgated.
5 "(4) LIMITATION ON CONTRACTOR LIABIL-
6 ITY.—The Secretary shall by regulation provide for
7 the limitation of a contractor's liability for actions
8 taken to carry out a contract under the Program,
9 and such regulation shall, to the extent the Sec-
10 retary finds appropriate, employ the same or com-
11 parable standards and other substantive and proce-
12 dural provisions as are contained in section 1157.
13 "(d) COMPREHENSIVE PLAN FOR PROGRAM INTEG-
14 RITY.—
15 "(1) 5-YEAR PLAN.—With respect to the 5 fis-
16 cal year period beginning with fiscal year 2006, and
17 each such 5-fiscal year period that begins thereafter,
18 the Secretary shall establish a comprehensive plan
19 for ensuring the integrity of the program established
20 under this title by combatting fraud, waste, and
21 abuse.
22 "(2) CONSULTATION.—Each 5-fiscal year plan
23 established under paragraph (1) shall be developed
24 by the Secretary in consultation with the Attorney
25 General, the Director of the Federal Bureau of In-

1 vestigation, the Comptroller General of the United
2 States, the Inspector General of the Department of
3 Health and Human Services, and State officials with
4 responsibility for controlling provider fraud and
5 abuse under State plans under this title.
6 ''(e) APPROPRIATION.—
7 ''(1) IN GENERAL.—Out of any money in the
8 Treasury of the United States not otherwise appro-
9 priated, there are appropriated to carry out the
10 Medicaid Integrity Program under this section, with-
11 out further appropriation—
12 ''(A) for each of fiscal years 2006 through
13 2008, $50,000,000; and
14 ''(B) for each fiscal year after fiscal year
15 2008, $75,000,000.
16 ''(2) AVAILABILITY.—Amounts appropriated
17 pursuant to paragraph (1) shall remain available
18 until expended.
19 ''(3) ANNUAL REPORT.—Not later than 180
20 days after the end of each fiscal year (beginning
21 with fiscal year 2006), the Secretary shall submit a
22 report to Congress which identifies—
23 ''(A) the use of funds appropriated pursu-
24 ant to paragraph (1); and

1 "(B) the effectiveness of the use of such
2 funds.".
3 "MEDICAID CHIEF FINANCIAL OFFICER; MEDICAID
4 PROGRAM INTEGRITY OVERSIGHT BOARD
5 "SEC. 1937. (a) ESTABLISHMENT OF MEDICAID
6 CFO.—
7 "(1) IN GENERAL.—There is established in the
8 Centers for Medicare & Medicaid Services within the
9 Office of Financial Management the position of
10 Medicaid Chief Financial Officer. The Medicaid
11 Chief Financial Officer shall be appointed by, and
12 report directly to, the Administrator of such Cen-
13 ters. The Medicaid Chief Financial Officer may be
14 removed only for cause.
15 "(2) DUTIES AND AUTHORITY.—The duties
16 and authority of the Medicaid Chief Financial Offi-
17 cer with respect to the management and expenditure
18 of Federal funds under this title shall be comparable
19 to the duties and authority of other Chief Financial
20 Officers with respect to the management and ex-
21 penditure of Federal funds under Federal health
22 care programs (as defined in section 1128B(f)).
23 "(b) PROGRAM INTEGRITY OVERSIGHT BOARD.—
24 The Secretary shall establish a Medicaid Program Integ-
25 rity Oversight Board. The duties and authority of the
26 Medicaid Program Integrity Oversight Board shall be

1 comparable to the duties and authority of other oversight
2 boards established for purposes of Federal health care pro-
3 grams (as so defined) and shall include responsibility for
4 identifying vulnerabilities in the State programs estab-
5 lished under this title and developing strategies for mini-
6 mizing integrity risks to such programs.''.

7 (b) STATE REQUIREMENT TO COOPERATE WITH IN-
8 TEGRITY PROGRAM EFFORTS.—Section 1902(a) (42
9 U.S.C. 1396a(a)), as amended by section 6024(a), is
10 amended—

11 (1) in paragraph (67), by striking ''and'' at the
12 end;

13 (2) in paragraph (68), by striking the period at
14 the end and inserting ''; and''; and

15 (3) by inserting after paragraph (68), the fol-
16 lowing:

17 ''(69) provide that the State must comply with
18 any requirements determined by the Secretary to be
19 necessary for carrying out the Medicaid Integrity
20 Program established under section 1936, or the du-
21 ties of the Medicaid Chief Financial Officer and the
22 Medicaid Program Integrity Oversight Board estab-
23 lished under section 1937.''.

24 (c) INCREASED FUNDING FOR MEDICAID FRAUD AND
25 ABUSE CONTROL ACTIVITIES.—

1 (1) IN GENERAL.—Out of any money in the
2 Treasury of the United States not otherwise appro-
3 priated, there are appropriated to the Office of the
4 Inspector General of the Department of Health and
5 Human Services, without further appropriation,
6 $25,000,000 for each of fiscal years 2006 through
7 2010, for activities of such Office with respect to the
8 Medicaid program under title XIX of the Social Se-
9 curity Act (42 U.S.C. 1396 et seq.).
10 (2) AVAILABILITY; AMOUNTS IN ADDITION TO
11 OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVI-
12 TIES.—Amounts appropriated pursuant to para-
13 graph (1) shall—
14 (A) remain available until expended; and
15 (B) be in addition to any other amounts
16 appropriated or made available to the Office of
17 the Inspector General of the Department of
18 Health and Human Services for activities of
19 such Office with respect to the Medicaid pro-
20 gram.
21 (3) ANNUAL REPORT.—Not later than 180 days
22 after the end of each fiscal year (beginning with fis-
23 cal year 2006), the Inspector General of the Depart-
24 ment of Health and Human Services shall submit a
25 report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(d) INCREASE IN CMS STAFFING DEVOTED TO ENSURING MEDICAID PROGRAM INTEGRITY.—The Secretary shall significantly increase the number of full-time equivalent employees whose duties consist solely of ensuring the integrity of the Medicaid program established under title XIX of the Social Security Act by providing effective support and assistance to States to combat provider fraud and abuse.

(e) DELAYED EFFECTIVE DATE FOR CHAPTER.—in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative

1 session, each year of the session shall be considered to be
2 a separate regular session of the State legislature.

## 3 CHAPTER 4—STATE FINANCING UNDER
## 4 MEDICAID

### 5 SEC. 6031. REFORMS OF TARGETED CASE MANAGEMENT.

6 (a) IN GENERAL.—Section 1915(g) (42 U.S.C.
7 1396n(g)(2)) is amended by striking paragraph (2) and
8 inserting the following:

9 ''(2) For purposes of this subsection:

10 ''(A)(i) The term 'case management services'
11 means services which will assist individuals eligible
12 under the plan in gaining access to needed medical,
13 social, educational, and other services.

14 ''(ii) Such term includes the following:

15 ''(I) Assessment of an eligible individual to
16 determine service needs, including activities
17 that focus on needs identification, to determine
18 the need for any medical, educational, social, or
19 other services. Such assessment activities in-
20 clude the following:

21 ''(aa) Taking client history.

22 ''(bb) Identifying the needs of the in-
23 dividual, and completing related docu-
24 mentation.

1 "(cc) Gathering information from
2 other sources such as family members,
3 medical providers, social workers, and edu-
4 cators, if necessary, to form a complete as-
5 sessment of the eligible individual.
6 "(II) Development of a specific care plan
7 based on the information collected through an
8 assessment, that specifies the goals and actions
9 to address the medical, social, educational, and
10 other services needed by the eligible individual,
11 including activities such as ensuring the active
12 participation of the eligible individual and work-
13 ing with the individual (or the individual's au-
14 thorized health care decision maker) and others
15 to develop such goals and identify a course of
16 action to respond to the assessed needs of the
17 eligible individual.
18 "(III) Referral and related activities to
19 help an individual obtain needed services, in-
20 cluding activities that help link eligible individ-
21 uals with medical, social, educational providers
22 or other programs and services that are capable
23 of providing needed services, such as making re-
24 ferrals to providers for needed services and
25 scheduling appointments for the individual.

"(IV) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

"(aa) whether services are being furnished in accordance with an individual's care plan;

"(bb) whether the services in the care plan are adequate; and

"(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

"(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

1 "(I) Research gathering and completion of
2 documentation required by the foster care pro-
3 gram.
4 "(II) Assessing adoption placements.
5 "(III) Recruiting or interviewing potential
6 foster care parents.
7 "(IV) Serving legal papers.
8 "(V) Home investigations.
9 "(VI) Providing transportation.
10 "(VII) Administering foster care subsidies.
11 "(VIII) Making placement arrangements.
12 "(B) The term 'targeted case management serv-
13 ices' are case management services that are fur-
14 nished without regard to the requirements of section
15 1902(a)(1) and section 1902(a)(10)(B) to specific
16 classes of individuals or to individuals who reside in
17 specified areas.
18 "(3) With respect to contacts with individuals who
19 are not eligible for medical assistance under the State plan
20 or, in the case of targeted case management services, indi-
21 viduals who are eligible for such assistance but are not
22 part of the target population specified in the State plan,
23 such contacts—
24 "(A) are considered an allowable case manage-
25 ment activity, when the purpose of the contact is di-

rectly related to the management of the eligible individual's care; and

"(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

"(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

"(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A-87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

**SEC. 6032. TEMPORARY FEDERAL MATCHING PAYMENTS FOR FEDERAL ASSISTANCE.**

(a) 100 PERCENT FEDERAL MATCHING PAYMENTS FOR MEDICAL ASSISTANCE PROVIDED TO SPECIFIED INDIVIDUALS.—

1 (1) IN GENERAL.—Notwithstanding section
2 1905(b) of the Social Security Act (42 U.S.C.
3 1396d(b)), for items and services furnished during
4 the period that begins on August 28, 2005, and ends
5 on May 15, 2006, the Federal medical assistance
6 percentage for providing medical assistance for such
7 items and services under a State Medicaid plan to
8 a specified individual (as defined in subsection (b)),
9 and for costs directly attributable to all administra-
10 tive activities that relate to the provision of such
11 medical assistance, shall be 100 percent.
12 (2) APPLICATION TO CHILD HEALTH ASSIST-
13 ANCE.—Notwithstanding section 2105(b) of the So-
14 cial Security Act (42 U.S.C. 1397ee(b)), for items
15 and services furnished during the period described in
16 paragraph (1), the Federal matching rate for pro-
17 viding child health assistance for such items and
18 services under a State child health plan to a speci-
19 fied individual (as so defined), and for costs directly
20 attributable to all administrative activities that re-
21 late to the provision of such child health assistance,
22 shall be 100 percent.
23 (b) SPECIFIED INDIVIDUAL.—
24 (1) IN GENERAL.—For purposes of subsection
25 (a), the term ''specified individual'' means an indi-

1 vidual who, on any day during the week preceding
2 August 28, 2005, had a primary residence in a Lou-
3 isiana parish described in paragraph (2), a Mis-
4 sissippi county described in paragraph (3), or an
5 Alabama county described in paragraph (4).
6 (2) LOUISIANA PARISHES DESCRIBED.—For
7 purposes of paragraph (1), the Louisiana parishes
8 described in this paragraph are the following:
9 (A) Acadia.
10 (B) Ascension.
11 (C) Assumption.
12 (D) Calcasieu.
13 (E) Cameron.
14 (F) East Baton Rouge.
15 (G) East Feliciana.
16 (H) Iberia.
17 (I) Iberville.
18 (J) Jefferson.
19 (K) Jefferson Davis.
20 (L) Lafayette.
21 (M) Lafourche.
22 (N) Livingston.
23 (O) Orleans.
24 (P) Pointe Coupee.
25 (Q) Plaquemines.

(R) St. Bernard.

(S) St. Charles.

(T) St. Helena.

(U) St. James.

(V) St. John.

(W) St. Mary.

(X) St. Martin.

(Y) St. Tammany.

(Z) Tangipahoa.

(AA) Terrebonne.

(BB) Vermilion.

(CC) Washington.

(DD) West Baton Rouge.

(EE) West Feliciana.

(3) MISSISSIPPI COUNTIES DESCRIBED.—For purposes of paragraph (1), the Mississippi counties described in this paragraph are the following:

(A) Adams.

(B) Amite.

(C) Attala.

(D) Clairborne.

(E) Choctaw.

(F) Clarke.

(G) Copiah.

(H) Covington.

(I) Forrest.

(J) Franklin.

(K) George.

(L) Greene.

(M) Hancock.

(N) Harrison.

(O) Hinds.

(P) Jackson.

(Q) Jasper.

(R) Jefferson.

(S) Jefferson Davis.

(T) Jones.

(U) Kemper.

(V) Lamar.

(W) Lauderdale.

(X) Lawrence.

(Y) Leake.

(Z) Lincoln.

(AA) Lowndes.

(BB) Madison.

(CC) Marion.

(DD) Neshoba.

(EE) Newton.

(FF) Noxubee.

(GG) Oktibbeha.

(HH) Pearl River.

(II) Perry.

(JJ) Pike.

(KK) Rankin.

(LL) Scott.

(MM) Simpson.

(NN) Smith.

(OO) Stone.

(PP) Walthall.

(QQ) Warren.

(RR) Wayne.

(SS) Wilkinson.

(TT) Winston.

(UU) Yazoo.

(4) ALABAMA COUNTIES DESCRIBED.—For purposes of paragraph (1) the Alabama counties described in this paragraph are the following:

(A) Baldwin.

(B) Choctaw.

(C) Clarke.

(D) Greene.

(E) Hale.

(F) Marengo.

(G) Mobile.

(H) Pickens.

(I) Sumter.

(J) Tuscaloosa.

(K) Washington.

(c) FMAP ADJUSTMENT.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), the Federal medical assistance percentage determined for Alaska for fiscal year 2006 or fiscal year 2007 is less than the Federal medical assistance percentage determined for Alaska for fiscal year 2005, the Federal medical assistance percentage determined for Alaska for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for Alaska for fiscal year 2006 or fiscal year 2007, as the case may be.

**SEC. 6033. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.**

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on January 1, 2006.

(2) NONAPPLICATION.—The amendment made by subsection (a) shall not apply in the case of a State that, as of December 31, 2005, has in effect a tax imposed on the class of health care items and services described in section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) (as in effect before the date of enactment of this Act).

**SEC. 6034. INCLUSION OF PODIATRISTS AS PHYSICIANS.**

(a) IN GENERAL.—Section 1905(a)(5)(A) (42 U.S.C. 1396d(a)(5)(A)) is amended by striking ''section 1861(r)(1)'' and inserting ''paragraphs (1) and (3) of section 1861(r)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2006.

**SEC. 6035. DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—The table in section 1923(f)(2) (42 U.S.C. 1396r–4(f)(2)) is amended under each of the columns for FY 00, FY 01, and FY 02, in the entry for

1 the District of Columbia, by striking ''32'' and inserting
2 ''49''.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall take effect as if enacted on October
5 1, 2005 and shall apply to expenditures made on or after
6 that date.

7 **SEC. 6036. DEMONSTRATION PROJECT REGARDING MED-**
8 **ICAID REIMBURSEMENT FOR STABILIZATION**
9 **OF EMERGENCY MEDICAL CONDITIONS BY**
10 **NON-PUBLICLY OWNED OR OPERATED INSTI-**
11 **TUTIONS FOR MENTAL DISEASES.**

12 (a) AUTHORITY TO CONDUCT DEMONSTRATION
13 PROJECT.—The Secretary shall establish a demonstration
14 project under which an eligible State (as defined in sub-
15 section (b)) shall provide reimbursement under the State
16 medicaid plan to an institution for mental diseases that
17 is not publicly owned or operated and that is subject to
18 the requirements of section 1867 of the Social Security
19 Act (42 U.S.C, 1395dd) for the provision of medical as-
20 sistance available under such plan to an individual who—

21 (1) has attained age 21, but has not attained
22 age 65;

23 (2) is eligible for medical assistance under such
24 plan; and

(3) requires such medical assistance to stabilize an emergency medical condition.

(b) ELIGIBLE STATE DEFINED.—

(1) APPLICATION.—Upon approval of an application submitted by a State described in paragraph (2), the State shall be an eligible State for purposes of conducting a demonstration project under this section.

(2) STATE DESCRIBED.—A State described in this paragraph is each of the following:

(A) Arizona.

(B) Arkansas.

(C) Louisiana.

(D) Maine.

(E) North Dakota.

(F) Wyoming.

(G) Four other States selected by the Secretary to provide geographic diversity on the basis of the application to conduct a demonstration project under this section submitted by such States.

(c) LENGTH OF DEMONSTRATION PROJECT.—The demonstration project established under this section shall be conducted for a period of 3 consecutive years.

(d) LIMITATIONS ON FEDERAL FUNDING.—

(1) APPROPRIATION.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, $30,000,000 for fiscal year 2006.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under that subparagraph.

(2) 3-YEAR AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for obligation through December 31, 2008.

(3) LIMITATION ON PAYMENTS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to eligible States under this section exceed $30,000,000; or

(B) payments be provided by the Secretary under this section after December 31, 2008.

(4) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to eligible States based on their applications and the availability of funds.

1 (5) PAYMENTS TO STATES.—The Secretary
2 shall pay to each eligible State, from its allocation
3 under paragraph (4), an amount each quarter equal
4 to the Federal medical assistance percentage of ex-
5 penditures in the quarter for medical assistance de-
6 scribed in subsection (a).
7 (e) REPORTS.—
8 (1) ANNUAL PROGRESS REPORTS.—The Sec-
9 retary shall submit annual reports to Congress on
10 the progress of the demonstration project conducted
11 under this section.
12 (2) FINAL REPORT AND RECOMMENDATION.—
13 Not later than March 31, 2009, the Secretary shall
14 submit to Congress a final report on the demonstra-
15 tion project conducted under this section that shall
16 include the following:
17 (A) A determination as to whether the
18 demonstration project resulted in increased ac-
19 cess to inpatient mental health services under
20 the medicaid program.
21 (B) An analysis regarding whether the
22 demonstration project produced a significant re-
23 duction in the use of higher cost emergency
24 room visits for individuals eligible for medical
25 assistance under the medicaid program.

(C) An assessment of the impact of the demonstration project on the costs related to the provision of inpatient psychiatric care and services under the medicaid program.

(D) A recommendation regarding whether the demonstration project should be continued after December 31, 2008, and expanded on a national basis.

(f) WAIVER AUTHORITY.—

(1) IN GENERAL.—The Secretary shall waive the limitation of subdivision (B) following paragraph (28) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) (relating to limitations on payments for care or services for individuals under 65 years of age who are patients in an institution for mental diseases) for purposes of carrying out the demonstration project under this section.

(2) LIMITED OTHER WAIVER AUTHORITY.—The Secretary may waive other requirements of titles XI and XIX of the Social Security Act (including the requirements of sections 1902(a)(1) (relating to statewideness) and 1902(a)(10)(B) (relating to comparability)) only to extent necessary to carry out the demonstration project under this section.

(g) DEFINITIONS.—In this section:

(1) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' has the meaning given that term in section 1867(e)(1) of the Social Security Act (42 U.S.C. 1395dd(e)(1)).

(2) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term ''Federal medical assistance percentage'' has the meaning given that term with respect to a State in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(3) INSTITUTION FOR MENTAL DISEASES.—The term ''institution for mental diseases'' has the meaning given that term in section 1905(i) of the Social Security Act (42 U.S.C. 1396d(i)).

(4) MEDICAL ASSISTANCE.—The term ''medical assistance'' has the meaning given that term in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(5) STABILIZE.—The term ''stabilize'' has the meaning given that term in section 1867(e)(3)(A) of the Social Security Act (42 U.S..C 1395dd(e)(3)(A)).

(6) STATE.—The term ''State'' has the meaning given that term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

# CHAPTER 5—IMPROVING THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS

## Subchapter A—Family Opportunity Act

### SEC. 6041. SHORT TITLE OF SUBCHAPTER.

This subchapter may be cited as the ''Family Opportunity Act of 2005'' or the ''Dylan Lee James Act''.

### SEC. 6042. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking ''or'' at the end of subclause (XVII);

(ii) by adding ''or'' at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

''(XIX) who are disabled children described in subsection (cc)(1);''; and

1 (B) by adding at the end the following new
2 subsection:
3 "(cc)(1) Individuals described in this paragraph are
4 individuals—
5 "(A) who are children who have not attained 19
6 years of age and are born—
7 "(i) on or after January 1, 2002 (or, at
8 the option of a State, on or after an earlier
9 date), in the case of the second, third, and
10 fourth quarters of fiscal year 2008;
11 "(ii) on or after October 1, 1996 (or, at
12 the option of a State, on or after an earlier
13 date), in the case of each quarter of fiscal year
14 2009; and
15 "(iii) after October 1, 1990, in the case of
16 each quarter of fiscal year 2010 and each quar-
17 ter of any fiscal year thereafter;
18 "(B) who would be considered disabled under
19 section 1614(a)(3)(C) but for having earnings or
20 deemed income or resources (as determined under
21 title XVI for children) that exceed the requirements
22 for receipt of supplemental security income benefits;
23 and

"(C) whose family income does not exceed such income level as the State establishes and does not exceed—

"(i) 300 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved; or

"(ii) such higher percent of such poverty line as a State may establish, except that—

"(I) any medical assistance provided to an individual whose family income exceeds 300 percent of such poverty line may only be provided with State funds; and

"(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.".

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

"(i) require such parent to apply for, enroll in, and pay premiums for such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

1 (b) STATE OPTION TO IMPOSE INCOME-RELATED
2 PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is amend-
3 ed—
4 (1) in subsection (a), by striking ''subsection
5 (g)'' and inserting ''subsections (g) and (h)''; and
6 (2) by adding at the end the following new sub-
7 section:
8 ''(h)(1) With respect to disabled children provided
9 medical assistance under section 1902(a)(10)(A)(ii)(XIX),
10 subject to paragraph (2), a State may (in a uniform man-
11 ner for such children) require the families of such children
12 to pay monthly premiums set on a sliding scale based on
13 family income.
14 ''(2) A premium requirement imposed under para-
15 graph (1) may only apply to the extent that—
16 ''(A) in the case of a disabled child described in
17 that paragraph whose family income—
18 ''(i) does not exceed 200 percent of the
19 poverty line, the aggregate amount of such pre-
20 mium and any premium that the parent is re-
21 quired to pay for family coverage under section
22 1902(cc)(2)(A)(i) and other cost-sharing
23 charges do not exceed 5 percent of the family's
24 income; and

"(ii) exceeds 200, but does not exceed 300, percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 7.5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of at least 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(2) Section 1905(u)(2)(B) (42 U.S.C. 1396d(u)(2)(B)) is amended by adding at the end the following sentence: ''Such term excludes any child eligible for medical assistance only by reason of section 1902(a)(10)(A)(ii)(XIX).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 2008.

**SEC. 6043. DEMONSTRATION PROJECTS REGARDING HOME AND COMMUNITY-BASED ALTERNATIVES TO PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN.**

(a) IN GENERAL.—The Secretary is authorized to conduct, during each of fiscal years 2007 through 2011, demonstration projects (each in the section referred to as a ''demonstration project'') in accordance with this section under which up to 10 States (as defined for purposes of title XIX of the Social Security Act) are awarded grants, on a competitive basis, to test the effectiveness in improving or maintaining a child's functional level and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment for children enrolled in the Medicaid program under title XIX of such Act.

(b) APPLICATION OF TERMS AND CONDITIONS.—

1 (1) IN GENERAL.—Subject to the provisions of
2 this section, for the purposes of the demonstration
3 projects, and only with respect to children enrolled
4 under such demonstration projects, a psychiatric res-
5 idential treatment facility (as defined in section
6 483.352 of title 42 of the Code of Federal Regula-
7 tions) shall be deemed to be a facility specified in
8 section 1915(c) of the Social Security Act (42
9 U.S.C. 1396n(c)), and to be included in each ref-
10 erence in such section 1915(c) to hospitals, nursing
11 facilities, and intermediate care facilities for the
12 mentally retarded.
13 (2) STATE OPTION TO ASSURE CONTINUITY OF
14 MEDICAID COVERAGE.—Upon the termination of a
15 demonstration project under this section, the State
16 that conducted the project may elect, only with re-
17 spect to a child who is enrolled in such project on
18 the termination date, to continue to provide medical
19 assistance for coverage of home and community-
20 based alternatives to psychiatric residential treat-
21 ment for the child in accordance with section
22 1915(c) of the Social Security Act (42 U.S.C.
23 1396n(c)), as modified through the application of
24 paragraph (1). Expenditures incurred for providing
25 such medical assistance shall be treated as a home

and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(c) TERMS OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this section, a demonstration project shall be subject to the same terms and conditions as apply to a waiver under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), including the waiver of certain requirements under the first sentence of paragraph (3) of such section but not applying the second sentence of such paragraph.

(2) BUDGET NEUTRALITY.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) do not exceed the amount which the Secretary estimates would have been paid under that title if the demonstration projects under this section had not been implemented.

(3) EVALUATION.—The application for a demonstration project shall include an assurance to provide for such interim and final evaluations of the

demonstration project by independent third parties, and for such interim and final reports to the Secretary, as the Secretary may require.

(d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE AND FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(2) LIMITATION.—In no case may the amount of payments made by the Secretary under this section for State demonstration projects for a fiscal year exceed the amount available under subsection (f)(2)(A) for such fiscal year.

(e) SECRETARY'S EVALUATION AND REPORT.—The Secretary shall conduct an interim and final evaluation of State demonstration projects under this section and shall report to the President and Congress the conclusions of such evaluations within 12 months of completing such evaluations.

(f) FUNDING.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are appropriated, from amounts in the Treasury not otherwise appropriated, for fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for each of fiscal years 2007 through 2011; and

(B) a total of $1,000,000 shall be available to the Secretary for the evaluations and report under subsection (e).

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this paragraph for a fiscal year is the amount specified in subparagraph (B) for the fiscal year plus the difference, if any, between the total amount available under this paragraph for prior fiscal years and the total amount previously expended under paragraph (1)(A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in this subparagraph for—

(i) fiscal year 2007 is $21,000,000;

(ii) fiscal year 2008 is $37,000,000;

(iii) fiscal year 2009 is $49,000,000;

(iv) fiscal year 2010 is $53,000,000; and

(v) fiscal year 2011 is $57,000,000.

**SEC. 6044. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.**

Section 501 (42 U.S.C. 701) is amended by adding at the end the following new subsection:

''(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2)—

''(i) there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

''(I) $3,000,000 for fiscal year 2007;

''(II) $4,000,000 for fiscal year 2008; and

''(III) $5,000,000 for fiscal year 2009; and

''(ii) there is authorized to be appropriated to the Secretary, $5,000,000 for each of fiscal years 2010 and 2011.

''(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

1 "(i) be in addition to amounts appropriated
2 under subsection (a) and retained under section
3 502(a)(1) for the purpose of carrying out activities
4 described in subsection (a)(2); and
5 "(ii) remain available until expended.
6 "(2) The family-to-family health information centers
7 described in this paragraph are centers that—
8 "(A) assist families of children with disabilities
9 or special health care needs to make informed
10 choices about health care in order to promote good
11 treatment decisions, cost-effectiveness, and improved
12 health outcomes for such children;
13 "(B) provide information regarding the health
14 care needs of, and resources available for, such chil-
15 dren;
16 "(C) identify successful health delivery models
17 for such children;
18 "(D) develop with representatives of health care
19 providers, managed care organizations, health care
20 purchasers, and appropriate State agencies, a model
21 for collaboration between families of such children
22 and health professionals;
23 "(E) provide training and guidance regarding
24 caring for such children;

1 "(F) conduct outreach activities to the families
2 of such children, health professionals, schools, and
3 other appropriate entities and individuals; and
4 "(G) are staffed—
5 "(i) by such families who have expertise in
6 Federal and State public and private health
7 care systems; and
8 "(ii) by health professionals.
9 "(3) The Secretary shall develop family-to-family
10 health information centers described in paragraph (2) in
11 accordance with the following:
12 "(A) With respect to fiscal year 2007, such cen-
13 ters shall be developed in not less than 25 States.
14 "(B) With respect to fiscal year 2008, such
15 centers shall be developed in not less than 40 States.
16 "(C) With respect to fiscal year 2009 and each
17 fiscal year thereafter, such centers shall be developed
18 in all States.
19 "(4) The provisions of this title that are applicable
20 to the funds made available to the Secretary under section
21 502(a)(1) apply in the same manner to funds made avail-
22 able to the Secretary under paragraph (1)(A).
23 "(5) For purposes of this subsection, the term 'State'
24 means each of the 50 States and the District of Colum-
25 bia.".

**SEC. 6045. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.**

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting ''(aa)'' after ''(II)'';

(2) by striking '') and'' and inserting ''and'';

(3) by striking ''section or who are'' and inserting ''section), (bb) who are''; and

(4) by inserting before the comma at the end the following: '', or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following' ''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act.

## Subchapter B—State Children's Health Insurance Program

**SEC. 6051. RULES FOR AVAILABILITY, REDISTRIBUTION, AND EXTENDED AVAILABILITY OF ALLOTMENTS FOR FISCAL YEARS 2003, 2004, AND 2005.**

(a) IN GENERAL.—Section 2104 (42 U.S.C. 1397dd) is amended—

(1) by amending subsection (e) to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2003, and for fiscal year 2006 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2004 and 2005, shall remain available for expenditure by the State during the initial availability period (as defined in paragraph (3)(A)).

"(2) AVAILABILITY OF REALLOTMENTS, REDISTRIBUTED AMOUNTS, AND EXTENDED AVAILABILITY.—

"(A) IN GENERAL.—Amounts reallotted to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are reallotted.

"(B) AVAILABILITY OF REDISTRIBUTED FUNDS AND EXTENDED AVAILABILITY.—Amounts redistributed to a State under subsection (i)(3) or (j)(3) and unused allotments of a State extended under subsection (i)(4) or (j)(4) are available for expenditure by the State during the redistribution/extension period (as defined in paragraph (3)(B)).

"(3) PERIODS DEFINED.—For purposes of this section:

"(A) INITIAL AVAILABILITY PERIOD.—The term 'initial availability period' means, with respect to allotments for a fiscal year, the 2-fiscal year period beginning with that fiscal year.

"(B) REDISTRIBUTION/EXTENSION PERIOD.—The term 'redistribution/extension period' means, with respect to allotments for a

fiscal year, the second year following that fiscal year.''; and

(2) by adding at the end the following new subsections:

''(h) RULE FOR REDISTRIBUTION OF FISCAL YEAR 2003 ALLOTMENTS.—

''(1) COMPUTATION OF UNEXPENDED ALLOTMENTS FOR FISCAL YEAR 2003.—The Secretary shall determine—

''(A) the amount of each State's allotment under this section for fiscal year 2003 that was not expended by the end of fiscal year 2005; and

''(B) the total of the unexpended allotments determined under subparagraph (A).

''(2) DETERMINATION OF INITIAL PROJECTED SHORTFALLS FOR FISCAL YEAR 2006.—For each State that receives an allotment for fiscal year 2006 under subsection (b), the Secretary shall determine the following:

''(A) FISCAL YEAR 2005 CARRYOVER.—The amount of the State's allotment for 2005 that was not expended in fiscal year 2005.

''(B) PROJECTED EXPENDITURES FOR FISCAL YEAR 2006.—The estimated expenditures

for the State as would be reported as quarterly expenditures under section 2105(a) for quarters in fiscal year 2006.

"(C) INITIAL PROJECTED SHORTFALL FOR FISCAL YEAR 2006.—The amount, if any, by which the projected expenditures determined under subparagraph (B) for the State for quarters in fiscal year 2006 exceeds the sum of the following:

"(i) FISCAL YEAR 2005 CARRYOVER.—The amount determined under subparagraph (A) for the State.

"(ii) FISCAL YEAR 2006 ALLOTMENT.—The amount of the State's allotment for fiscal year 2006.

"(D) STATE'S PROPORTION OF AGGREGATE SHORTFALL.—For each State for which there is an excess determined under subparagraph (C), the ratio of—

"(i) the amount of such excess; to

"(ii) the total of such excesses determined for all States with such an excess.

"(3) REDISTRIBUTION OF UNEXPENDED ALLOTMENTS FOR FISCAL YEAR 2003.—From the total of the unexpended allotments for fiscal year 2003

determined under paragraph (1)(B) the Secretary shall redistribute under subsection (f) the following:

"(A) STATES OTHER THAN TERRITORIES.—There shall be redistributed to each State for which there is an excess determined under paragraph (2)(C) an amount equal to the product of the following:

"(i) STATE REDISTRIBUTION POOL.—The amount determined under paragraph (1)(B), reduced by the total amount redistributed under subparagraph (B).

"(ii) STATE'S SHORTFALL PROPORTION.—The ratio described in paragraph (2)(D) for that State.

"(B) TERRITORIES.—There shall be redistributed to each commonwealth or territory described in subsection (c)(3) an amount equal to the product of the following:

"(i) TERRITORIAL REDISTRIBUTION POOL.—1.05 percent of the amount determined under paragraph (1)(B).

"(ii) TERRITORIAL PROPORTION.—The ratio of—

"(I) the allotment for fiscal year 2003 for such commonwealth or territory under subsection (c), to

"(II) the total of all such allotments for such fiscal year for such commonwealths or territories under such subsection.

"(4) DETERMINATION OF AMOUNTS.—For purposes of calculating the amounts described in—

"(A) paragraphs (1) and (2)(A), the Secretary shall use the amounts reported by the States not later than November 30, 2005, on Form CMS-64 or Form CMS-21, as the case may be, as approved by the Secretary; and

"(B) paragraph (2)(B), the Secretary shall use the amounts reported by the States not later than September 30, 2005, on Form CMS-37 or Form CMS-21B, as the case may be, as approved by the Secretary.

"(i) REDISTRIBUTION AND EXTENSION OF AVAILABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2004.—Notwithstanding subsection (f):

"(1) COMPUTATION OF UNEXPENDED ALLOTMENTS FOR FISCAL YEAR 2004.—

"(A) IN GENERAL.—The Secretary shall determine with respect to each State that receives an allotment for fiscal year 2004 under subsection (b)—

"(i) the amount of the State's allotment for such fiscal year that was not expended by the end of fiscal year 2005; and

"(ii) the total of the unexpended allotments determined under clause (i).

"(B) REDUCTION OF UNEXPENDED ALLOTMENT BY NET FISCAL YEAR 2006 SHORTFALL.—

"(i) IN GENERAL.—In the case of a State described in clause (ii), the Secretary shall reduce, but not below 0, the amount determined for the State under subparagraph (A)(i) (relating to the State's unexpended allotment for fiscal year 2004) by the amount of the allotment of the State for which availability is extended under paragraph (4)(A).

"(ii) STATE DESCRIBED.—A State described in this clause is a State that meets the following requirements:

"(I) FULLY SPENT FISCAL YEAR 2003 ALLOTMENT.—The State's allotment under this section for fiscal year 2003 was fully expended by the end of fiscal year 2005.

"(II) DID NOT FULLY EXPEND FISCAL YEAR 2004 ALLOTMENT BY END OF FISCAL YEAR 2005.—The State's allotment under this section for fiscal year 2004 was not fully expended by the end of fiscal year 2005.

"(III) PROJECTED FISCAL YEAR 2006 SHORTFALL.—The State has an excess determined under subsection (h)(2)(C) (relating to initial projected fiscal year 2006 shortfall).

"(C) TOTALS AND RATIOS.—The Secretary shall determine the following:

"(i) REDISTRIBUTION POOL.—A redistribution pool equal to the total of the amounts determined under subparagraph (A)(i), as reduced (if applicable) under subparagraph (B)(i).

"(ii) STATE PROPORTION TOWARD REDISTRIBUTION POOL.—For each State in

which the amount determined under subparagraph (A)(i) (as reduced, if applicable, under subparagraph (B)(i)) exceeds 0, the ratio of—

"(I) such amount (as so reduced) for the State; to

"(II) the total determined under clause (i).

"(D) AMOUNT OF UNEXPENDED FISCAL YEAR 2004 ALLOTMENT APPLIED TO REDISTRIBUTIONS.—For each State described in subparagraph (C)(ii), the Secretary shall determine a redistribution/reduction amount equal to the product of the following:

"(i) TOTAL AMOUNT REDISTRIBUTED.—The total amount redistributed under paragraph (3).

"(ii) STATE'S PROPORTION OF UNEXPENDED ALLOTMENTS.—The ratio for the State determined under subparagraph (C)(ii).

"(2) DETERMINATION OF NET PROJECTED SHORTFALLS FOR FISCAL YEAR 2006.—For each State that has an excess determined under subsection (h)(2)(C) (relating to initial projected fiscal

year 2006 shortfall), the Secretary shall determine an amount equal to the amount determined under such subsection, reduced by the sum of—

"(A) the amount redistributed to the State under subsection (h)(3)(A), and

"(B) the amount of funds of the State for which availability is extended under paragraph (4)(A).

"(3) REDISTRIBUTION FROM REDISTRIBUTION POOL.—From the redistribution pool determined under paragraph (1)(C)(i)—

"(A) STATES OTHER THAN TERRITORIES.—There shall be redistributed to each State which has a net projected shortfall under paragraph (2) an amount determined under such paragraph for the State.

"(B) TERRITORIES.—There shall be redistributed to each commonwealth or territory described in subsection (c)(3) an amount equal to the product of the following:

"(i) TERRITORIAL REDISTRIBUTION POOL.—1.05 percent of the amount of such unexpended allotments determined under paragraph (1)(A)(ii).

"(ii) TERRITORIAL PROPORTION.—The ratio of—

"(I) the allotment under subsection (c) for such commonwealth or territory for fiscal year 2004, to

"(II) the total of all such allotments for such commonwealths and territories.

"(4) EXTENDED AVAILABILITY OF REMAINING UNEXPENDED ALLOTMENTS.—

"(A) TO MEET NET SHORTFALL FOR FISCAL YEAR 2006.—In the case of a State described in paragraph (1)(B)(ii), the Secretary shall extend the availability of funds from the State's allotment for fiscal year 2004 to the extent that—

"(i) the amount determined under subsection (h)(2)(C) (relating to initial shortfall for fiscal year 2006), exceeds

"(ii) the amount redistributed to the State under subsection (h)(3)(A).

"(B) OTHER EXTENSIONS.—The Secretary shall extend the availability of funds from allotments for fiscal year 2004 for each State which has an unexpended allotment for fiscal year

2004 determined under paragraph (1)(A) (as reduced, if applicable, under paragraph (1)(B)) by an amount equal to the amount (if any) by which—

"(i) the amount of such unexpended allotment (as so reduced) for the State, exceeds

"(ii) the redistribution/reduction amount determined under paragraph (1)(D) for the State (relating to the portion of the unexpended allotment applied to redistributions).

"(5) DETERMINATION OF AMOUNTS.—For purposes of calculating the amounts described in—

"(A) paragraph (1)(A)(i), the Secretary shall use the amounts reported by the States not later than November 30, 2005, on Form CMS-64 or Form CMS-21, as the case may be, as approved by the Secretary; and

"(B) paragraph (1)(B)(i), the Secretary shall use the amounts reported by the States not later than September 30, 2005, on Form CMS-37 or Form CMS-21B, as the case may be, as approved by the Secretary.

"(j) REDISTRIBUTION AND EXTENSION OF AVAILABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2005.—Notwithstanding subsection (f):

"(1) COMPUTATION OF UNEXPENDED ALLOTMENTS FOR FISCAL YEAR 2005.—

"(A) IN GENERAL.—The Secretary shall determine with respect to each State that receives an allotment for fiscal year 2005 under subsection (b)—

"(i) the amount of the State's allotment for fiscal year 2005 that was not expended by the end of fiscal year 2006; and

"(ii) the total of the unexpended allotments determined under clause (i).

"(B) REDUCTION OF UNEXPENDED ALLOTMENT BY NET FISCAL YEAR 2007 SHORTFALL.—

"(i) IN GENERAL.—In the case of a State described in clause (ii), the Secretary shall reduce, but not below 0, the amount determined for the State under subparagraph (A)(i) (relating to the State's unexpended allotment for fiscal year 2005) by the amount of the allotment of the State

for which availability is extended under paragraph (4)(A).

"(ii) STATE DESCRIBED.—A State described in this clause is a State that meets the following requirements:

"(I) DID NOT FULLY EXPEND FISCAL YEAR 2005 ALLOTMENT BY END OF FISCAL YEAR 2006.—The State's allotment under this section for fiscal year 2005 was not fully expended by the end of fiscal year 2006.

"(II) PROJECTED SHORTFALL FOR FISCAL YEAR 2007.—The State has an excess determined under paragraph (2)(C) for fiscal year 2007 (relating to initial projected fiscal year 2007 shortfall).

"(C) TOTALS AND RATIOS.—The Secretary shall determine the following:

"(i) REDISTRIBUTION POOL.—A redistribution pool equal to the total of the amounts determined under subparagraph (A)(i), as reduced (if applicable) under subparagraph (B)(i).

"(ii) STATE PROPORTION TOWARD REDISTRIBUTION POOL.—For each State in which the amount determined under subparagraph (A)(i) (as reduced, if applicable, under subparagraph (B)(i)) exceeds 0, the ratio of—

"(I) such amount (as so reduced) for the State; to

"(II) the total determined under clause (i).

"(D) AMOUNT OF UNEXPENDED FISCAL YEAR 2005 ALLOTMENT APPLIED TO REDISTRIBUTIONS.—For each State described in subparagraph (C)(ii), the Secretary shall determine a redistribution/reduction amount equal to the product of the following:

"(i) TOTAL AMOUNT REDISTRIBUTED.—The total amount redistributed under paragraph (3).

"(ii) STATE'S PROPORTION OF UNEXPENDED ALLOTMENTS.—The ratio for the State determined under subparagraph (C)(ii).

"(2) DETERMINATION OF INITIAL PROJECTED SHORTFALLS FOR FISCAL YEAR 2007.—For each

State that receives an allotment for fiscal year 2007 under subsection (b), the Secretary shall determine the following:

"(A) FISCAL YEAR 2006 CARRYOVER.—The amount of the State's allotment for fiscal year 2006 that was not expended in fiscal year 2006.

"(B) PROJECTED EXPENDITURES FOR FISCAL YEAR 2007.—The estimated expenditures for the State as would be reported as quarterly expenditures under section 2105(a) for quarters in fiscal year 2007.

"(C) INITIAL PROJECTED SHORTFALL FOR FISCAL YEAR 2007.—The amount, if any, by which the projected expenditures determined under subparagraph (B) for the State for quarters in fiscal year 2007 exceeds the sum of the following:

"(i) FISCAL YEAR 2006 CARRYOVER.—The amount determined under subparagraph (A) for the State.

"(ii) FISCAL YEAR 2007 ALLOTMENT.—The amount of the State's allotment for fiscal year 2007.

"(D) DETERMINATION OF NET PROJECTED SHORTFALLS FOR FISCAL YEAR 2007.—For each

State that has an excess determined under subparagraph (C), the Secretary shall determine an amount equal to the amount determined under such subparagraph, reduced by the amount of funds (if any) of the State for which availability is extended under paragraph (4)(A).

"(E) STATE'S PROPORTION OF NET AGGREGATE SHORTFALL.—For each State for which there is a net excess determined under subparagraph (D), the ratio of—

"(i) the amount of such net excess; to

"(ii) the total of such net excesses.

"(3) REDISTRIBUTION FROM REDISTRIBUTION POOL.—From the redistribution pool determined under paragraph (1)(C)(i)—

"(A) STATES OTHER THAN TERRITORIES.—There shall be redistributed to each State for which there is a net projected shortfall under paragraph (2)(D) an amount equal the lesser of the following:

"(i) NET FISCAL YEAR 2007 SHORTFALL.—The amount of the net excess described in paragraph (2)(D) for the State.

"(ii) PORTION OF UNEXPENDED FUNDS AVAILABLE.—The product of the following:

"(I) STATE REDISTRIBUTION POOL.—The amount determined under paragraph (1)(C)(i), reduced by the total amount redistributed under subparagraph (B).

"(II) STATE'S SHORTFALL PROPORTION.—The ratio described in paragraph (2)(E) for that State.

"(B) TERRITORIES.—There shall be redistributed to each commonwealth or territory described in subsection (c)(3) an amount equal to the product of the following:

"(i) TERRITORIAL REDISTRIBUTION POOL.—1.05 percent of the total amount of unexpended allotments determined under paragraph (1)(A)(ii).

"(ii) TERRITORIAL PROPORTION.—The ratio of—

"(I) the allotment under subsection (c) for such commonwealth or territory for fiscal year 2005, to

"(II) the total of all such allotments for such commonwealths and territories.

"(4) EXTENDED AVAILABILITY OF REMAINING UNEXPENDED ALLOTMENTS.—

"(A) TO MEET INITIAL PROJECTED SHORTFALL FOR FISCAL YEAR 2007.—In the case of a State that is described in paragraph (1)(B)(ii), the Secretary shall extend the availability of funds from the State's allotment for fiscal year 2005 to the extent of the amount described in paragraph (2)(C).

"(B) OTHER EXTENSIONS.—If the redistribution pool amount determined under paragraph (1)(C)(i) exceeds the total amount redistributed under paragraph (3), the Secretary shall extend the availability of funds from allotments for fiscal year 2005 for each State which has an unexpended allotment for that fiscal year determined under paragraph (1)(A) (as reduced, if applicable, under paragraph (1)(B)) by an amount equal to the amount (if any) by which—

"(i) the amount of the unexpended allotment (as so reduced) for the State, exceeds

"(ii) the redistribution/reduction amount determined under paragraph (1)(D) for the State (relating to the portion of the unexpended allotment applied to redistributions).

"(5) DETERMINATION OF AMOUNTS.—For purposes of calculating the amounts described in—

"(A) paragraph (1)(A), the Secretary shall use the amounts reported by the States not later than November 30, 2006, on Form CMS-64 or Form CMS-21, as the case may be, as approved by the Secretary; or

"(B) paragraph (2), the Secretary shall use the amounts reported by the States not later than September 30, 2006, on Form CMS-37 or Form CMS-21B, as the case may be, as approved by the Secretary.".

(b) USE OF REDISTRIBUTED FUNDS FOR CHILD HEALTH ASSISTANCE FOR TARGETED LOW-INCOME CHILDREN.—Section 2105(a) (42 U.S.C. 1397ee(a)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''or paragraph (3)'' after ''subparagraph (B)''; and

(2) by adding at the end the following:

''(3) USE OF REDISTRIBUTED FUNDS FOR CHILD HEALTH ASSISTANCE FOR TARGETED LOW-INCOME CHILDREN.—For purposes of paragraph (1), the expenditures described in this paragraph are expenditures that are not expenditures for child health assistance for targeted low-income children, but only if such expenditures are from any amounts redistributed under subparagraphs (A) or (B) of subsection (h)(3), (i)(3), or (j)(3) of section 2104.''.

**SEC. 6052. AUTHORITY TO USE UP TO 10 PERCENT OF FISCAL YEAR 2006 AND 2007 ALLOTMENTS FOR OUTREACH.**

Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) USE OF UP TO 10 PERCENT OF 2006 AND 2007 ALLOTMENTS FOR OUTREACH ACTIVITIES.—Notwithstanding subparagraph (A), a State may use up to 10 percent of the allotment for the State for fiscal year 2006 and for fiscal year 2007 for expenditures incurred during the

respective fiscal year for outreach activities as provided in section 2102(c)(1) under the plan.''.

**SEC. 6053. PROHIBITION AGAINST COVERING NONPREGNANT CHILDLESS ADULTS WITH SCHIP FUNDS.**

(a) PROHIBITION ON USE OF SCHIP FUNDS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), on and after the date of enactment of this subsection, the Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting ''and may not include coverage of a nonpregnant childless adult'' after ''section 2101)''; and

(2) by adding at the end the following: ''For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

(c) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act;

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et. seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide

child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.

**SEC. 6054. CONTINUED AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.**

(a) IN GENERAL.—Section 2105(g)(1)(A) (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2001'' and inserting ''2001, 2004, or 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005.

**SEC. 6055. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.**

Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

**''SEC. 2111. EXPANDED OUTREACH ACTIVITIES.**

''(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

"(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

"(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

"(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

"(b) PRIORITY FOR AWARD OF GRANTS.—

"(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

"(A) eligible entities that propose to target geographic areas with high rates of—

"(i) eligible but unenrolled children, including such children who reside in rural areas; or

"(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

"(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

"(i) Federal health safety net organizations; or

"(ii) faith-based organizations or consortia.

"(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

"(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

"(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

"(2) an assurance that the entity shall—

"(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

"(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

"(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

"(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

"(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

"(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement,

not supplant, non-Federal funds that are otherwise available for activities funded under this section.

"(f) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A State or local government.

"(B) A Federal health safety net organization.

"(C) A national, local, or community-based public or nonprofit private organization.

"(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

"(E) An elementary or secondary school.

"(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

"(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

"(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

"(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

"(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

"(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

"(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $25,000,000 for fiscal year 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall—

"(1) be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105; and

"(2) not be subject to the limitation on expenditures described in section 2105(c)(2)(A).".

## Subchapter C—Money Follows the Person Rebalancing Demonstration

### SEC. 6061. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as an "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State Medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State Medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

(b) DEFINITIONS.—For purposes of this section:

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term ''home and community-based long-term care services'' means, with respect

to a State Medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the Medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than 6 months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving Medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual

would continue to require the level of care provided in an inpatient facility; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term ''inpatient facility'' means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution.

(4) MEDICAID.—The term ''Medicaid'' means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(5) QUALIFIED HCB PROGRAM.—The term ''qualified HCB program'' means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority.

(6) QUALIFIED RESIDENCE.—The term ''qualified residence'' means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(7) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(8) SELF-DIRECTED SERVICES.—The term ''self-directed'' means, with respect to home and community-based long-term care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individ-

1 ual's authorized representative (as defined by the
2 Secretary), including the amount, duration, scope,
3 provider, and location of such services, under the
4 State Medicaid program consistent with the fol-
5 lowing requirements:

6 (A) ASSESSMENT.—There is an assess-
7 ment of the needs, capabilities, and preferences
8 of the individual with respect to such services.

9 (B) SERVICE PLAN.—Based on such as-
10 sessment, there is developed jointly with such
11 individual or the individual's authorized rep-
12 resentative a plan for such services for such in-
13 dividual that is approved by the State and
14 that—

15 (i) specifies those services, if any,
16 which the individual or the individual's au-
17 thorized representative would be respon-
18 sible for directing;

19 (ii) identifies the methods by which
20 the individual or the individual's author-
21 ized representative or an agency designated
22 by an individual or representative will se-
23 lect, manage, and dismiss providers of such
24 services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities

of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(9) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least 2 consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2009.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a statewide area or one or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State Medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other bar-

1 riers to flexibility in the availability of Medicaid
2 funds to pay for long-term care services for eligible
3 individuals participating in the project in the appro-
4 priate settings of their choice, including costs to
5 transition from an institutional setting to a qualified
6 residence.

7 (9) MAINTENANCE OF EFFORT AND COST-EF-
8 FECTIVENESS.—The application shall contain or be
9 accompanied by such information and assurances as
10 may be required to satisfy the Secretary that—

11 (A) total expenditures under the State
12 Medicaid program for home and community-
13 based long-term care services will not be less
14 for any fiscal year during the MFP demonstra-
15 tion project than for the greater of such ex-
16 penditures for—

17 (i) fiscal year 2005; or

18 (ii) any succeeding fiscal year before
19 the first year of the MFP demonstration
20 project; and

21 (B) in the case of a qualified HCB pro-
22 gram operating under a waiver under sub-
23 section (c) or (d) of section 1915 of the Social
24 Security Act (42 U.S.C. 1396n), but for the
25 amount awarded under a grant under this sec-

tion, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of Medicaid requirements described in subsection (d)(3), including adjustments to the maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement sys-

tems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(8)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's re-

ceipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which, and extent to which, the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(8); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional

1 eligibility rules to individuals transitioning to
2 community-based care.
3 (D) PROVIDER AGREEMENTS.—Section
4 1902(a)(27), in order to permit a State to im-
5 plement self-directed services in a cost-effective
6 manner.
7 (4) CONDITIONAL APPROVAL OF OUTYEAR
8 GRANT.—In awarding grants under this section, the
9 Secretary shall condition the grant for the second
10 and any subsequent fiscal years of the grant period
11 on the following:
12 (A) NUMERICAL BENCHMARKS.—The
13 State must demonstrate to the satisfaction of
14 the Secretary that it is meeting numerical
15 benchmarks specified in the grant agreement
16 for—
17 (i) increasing State Medicaid support
18 for home and community-based long-term
19 care services under subsection (c)(5); and
20 (ii) numbers of eligible individuals as-
21 sisted to transition to qualified residences.
22 (B) QUALITY OF CARE.—The State must
23 demonstrate to the satisfaction of the Secretary
24 that it is meeting the requirements under sub-

section (c)(11) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) 90 percent of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind

the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under Medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under Medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to, and oversight of, States for purposes of upgrading quality assurance and quality improvement systems under Medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for the portion of fiscal year 2009 that begins on January 1, 2009, and ends on September 30, 2009, and for fiscal year 2010, not more than $2,400,000 shall be available to the Secretary to carry out this subsection during the period that begins on January 1, 2009, and ends on September 30, 2013.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on, and a national evaluation of, the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of pro-

jected and actual savings related to the transition of individuals to qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and Congress, not later than September 30, 2013, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2010 through 2013, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for the portion of fiscal year 2009 beginning on January 1, 2009, and ending on September 30, 2009;

(B) $300,000,000 for fiscal year 2010;

(C) $350,000,000 for fiscal year 2011;

(D) $400,000,000 for fiscal year 2012; and

(E) $450,000,000 for fiscal year 2013.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2013.

## CHAPTER 6—OPTION FOR HURRICANE KATRINA DISASTER STATES TO DELAY APPLICATION

### SEC. 6071. OPTION FOR HURRICANE KATRINA DISASTER STATES TO DELAY APPLICATION.

Notwithstanding any provision of this subtitle, or any amendment made by this subtitle, the State of Louisiana, Mississippi, or Alabama may elect to not have the provisions of this subtitle, or of any amendment made by this subtitle, apply with respect to the State during any period for which a major disaster declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) with respect to a parish, in the case of Louisiana, or a county, in the case of Mississippi or Alabama, as a result of Hurricane Katrina is in effect.

# Subtitle B—Medicare

### SEC. 6101. IMPROVEMENTS TO THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.

(a) 5-YEAR EXTENSION.—

(1) EXTENSION OF PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking ''October 1, 2006'' and inserting ''October 1, 2011''; and

(B) in clause (ii)(II)—

(i) by striking ''October 1, 2006'' and inserting ''October 1, 2011''; and

(ii) by inserting ''or for discharges in the fiscal year'' after ''for the cost reporting period''.

(2) CONFORMING AMENDMENTS.—

(A) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking ''beginning'' and inserting ''occurring''; and

(II) by striking ''October 1, 2006'' and inserting ''October 1, 2011''; and

(ii) in clause (iv), by striking ''through fiscal year 2005'' and inserting ''through fiscal year 2011''.

1 (B) PERMITTING HOSPITALS TO DECLINE
2 RECLASSIFICATION.—Section 13501(e)(2) of
3 the Omnibus Budget Reconciliation Act of 1993
4 (42 U.S.C. 1395ww note) is amended by strik-
5 ing ''through fiscal year 2005'' and inserting
6 ''through fiscal year 2011''.
7 (b) OPTION TO USE OF 2002 AS BASE YEAR.—Sec-
8 tion 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—
9 (1) in subparagraph (D), by inserting ''subject
10 to subparagraph (K),'' after ''(d)(5)(G)),''; and
11 (2) by adding at the end the following new sub-
12 paragraph:
13 ''(K)(i) With respect to discharges occurring on or
14 after October 1, 2006, in the case of a medicare-depend-
15 ent, small rural hospital, for purposes of applying sub-
16 paragraph (D)—
17 ''(I) there shall be substituted for the base cost
18 reporting period described in subparagraph (D)(i)
19 the 12-month cost reporting period beginning during
20 fiscal year 2002; and
21 ''(II) any reference in such subparagraph to the
22 'first cost reporting period' described in such sub-
23 paragraph is deemed a reference to the first cost re-
24 porting period beginning on or after October 1,
25 2006.

"(ii) This subparagraph shall only apply to a hospital if the substitution described in clause (i)(I) results in an increase in the target amount under subparagraph (D) for the hospital.".

(c) ENHANCED PAYMENT FOR AMOUNT BY WHICH THE TARGET EXCEEDS THE PPS RATE.—Section 1886(d)(5)(G)(ii)(II) (42 U.S.C. 1395ww(d)(5)(G)(iv)(II)) is amended by inserting "(or 75 percent in the case of discharges occurring on or after October 1, 2006)" after "50 percent".

(d) ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR MEDICARE DEPENDENT HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting "or, in the case of discharges occurring on or after October 1, 2006, as a medicare-dependent, small rural hospital under subparagraph (G)(iv)" before the period at the end.

**SEC. 6102. REDUCTION IN PAYMENTS TO SKILLED NURSING FACILITIES FOR BAD DEBT.**

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(V) In determining such reasonable costs for skilled nursing facilities with respect to services furnished on or after October 1, 2005, the amount of bad debts otherwise

1 treated as allowed costs which are attributable to the
2 deductibles and coinsurance amounts under this title shall
3 be reduced by 30 percent of such amount otherwise allow-
4 able.''.

5 (b) TECHNICAL AMENDMENT.—Section
6 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended by
7 striking ''section 1833(t)(5)(B)'' and inserting ''section
8 1833(t)(8)(B)''.

9 **SEC. 6103. TWO-YEAR EXTENSION OF THE 50 PERCENT COM-**
10 **PLIANCE THRESHOLD USED TO DETERMINE**
11 **WHETHER A HOSPITAL OR UNIT OF A HOS-**
12 **PITAL IS AN INPATIENT REHABILITATION FA-**
13 **CILITY UNDER THE MEDICARE PROGRAM.**

14 (a) EXTENSION.—

15 (1) IN GENERAL.—Effective as if enacted on
16 June 30, 2005, notwithstanding section
17 412.23(b)(2) of title 42, Code of Federal Regula-
18 tions, during the period beginning on July 1, 2005,
19 and ending on June 30, 2007, the Secretary of
20 Health and Human Services shall not—

21 (A) require a compliance rate, pursuant to
22 the criterion (commonly known as the ''75 per-
23 cent rule'') that is used to determine whether a
24 hospital or unit of a hospital is an inpatient re-
25 habilitation facility (as defined in the rule pub-

lished in the Federal Register on May 7, 2004, entitled "Medicare Program; Final Rule; Changes to the Criteria for Being Classified as an Inpatient Rehabilitation Facility" (69 Fed. Reg. 25752)), that is greater than the 50 percent compliance threshold that became effective on July 1, 2004; or

(B) change the designation of an inpatient rehabilitation facility that is in compliance with such 50 percent threshold.

(2) RETROACTIVE STATUS AS AN INPATIENT REHABILITATION FACILITY; PAYMENTS; EXPEDITED REVIEW.—The Secretary of Health and Human Services shall establish procedures for—

(A) making any necessary retroactive adjustment to restore the status of a facility as an inpatient rehabilitation facility as a result of subsection (a); and

(B) making any necessary payments to inpatient rehabilitation facilities based on such adjustment for discharges occurring on or after July 1, 2005, and before the date of enactment of this Act.

(b) SPECIAL RULE.—In the case of a hospital or unit of a hospital that failed to meet the 50 percent compliance

threshold described in subsection (a)(1)(A) with respect to the first cost reporting period of the hospital or unit that began on or after July 1, 2004, the following rules shall apply:

(1) Such hospital or unit shall be deemed to meet such 50 percent threshold for purposes of subsection (a).

(2) The Secretary shall examine all the claims of the hospital or unit under title XVIII of the Social Security Act submitted during the 6-month period beginning after the end of such first cost reporting period.

(3) If the Secretary determines after such review that the hospital or unit is still not in compliance with such 50 percent compliance threshold—

(A) the deemed status of the hospital or unit under paragraph (1) shall be revoked retroactive to the beginning of such 6-month period; and

(B) the Secretary shall provide for the collection of any necessary overpayments by reason of the revocation under subparagraph (A).

(c) STUDY AND REPORT BY THE HHS INSPECTOR GENERAL.—

(1) STUDY.—

(A) IN GENERAL.—The Inspector General of the Department of Health and Human Services shall conduct a study of hospitals and units of hospitals that—

(i) are designated as inpatient rehabilitation facilities under title XVIII of the Social Security Act; and

(ii) would not be so designated if this section had not been enacted because the hospital or unit has a compliance rate that is greater than the 50 percent compliance threshold described in subsection (a)(1)(A) but is less than the 60 percent compliance threshold that would have become effective on July 1, 2005, but for this section.

(B) REQUIREMENT.—In conducting the study under subparagraph (A), the Inspector General shall analyze the types of patients the hospitals and units are treating and issues relating to the medical conditions of such patients that do not meet the medical requirements for determining compliance with such threshold.

(2) REPORT.—Not later than January 1, 2007, the Inspector General shall submit to Congress and the Secretary a report on the study conducted under

1 paragraph (1), together with such recommendations
2 as the Inspector General determines appropriate.
3 (d) REHABILITATION ADVISORY COUNCIL.—
4 (1) ESTABLISHMENT.—The Secretary shall es-
5 tablish an advisory council to be known as the ''Re-
6 habilitation Advisory Council''.
7 (2) MEMBERSHIP.—The membership of the Re-
8 habilitation Advisory Council shall include—
9 (A) physicians;
10 (B) Medicare beneficiaries;
11 (C) representatives of inpatient rehabilita-
12 tion facilities; and
13 (D) representatives of other entities and
14 practitioners that provide rehabilitative care in
15 settings other than in such facilities, such as
16 skilled nursing facilities.
17 (3) DUTIES.—
18 (A) ADVICE AND RECOMMENDATIONS.—
19 The Rehabilitation Advisory Council shall pro-
20 vide advice and recommendations to Congress
21 and the Secretary concerning the coverage of
22 rehabilitation services under the Medicare pro-
23 gram, including the appropriate medical criteria
24 for determining the appropriateness of inpatient
25 rehabilitation facility admissions.

(B) PERIODIC REPORTS.—The Rehabilitation Advisory Council shall provide Congress and the Secretary with periodic reports that summarize—

(i) the Council's activities; and

(ii) any recommendations for legislation or administrative action the Council considers to be appropriate.

(4) TERMINATION.—The Rehabilitation Advisory Council shall terminate on September 30, 2010.

**SEC. 6104. PROHIBITION ON PHYSICIAN SELF REFERRALS TO PHYSICIAN OWNED, LIMITED SERVICE HOSPITALS.**

(a) PROHIBITION.—Section 1877(d) (42 U.S.C. 1395nn(d)) is amended in each of paragraphs (2)(B) and (3)(B) by striking ''effective for the 18-month period beginning on the date of enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003'' and inserting ''on and after December 8, 2003''.

(b) REVISIONS TO THE REQUIREMENTS TO QUALIFY FOR THE EXCEPTION TO THE DEFINITION OF SPECIALTY HOSPITAL.—Section 1877(h)(7)(B) (42 U.S.C. 1395nn(h)(7)(B)) is amended—

(1) by redesignating clauses (iii), (iv), and (v) as clauses (vi), (vii), and (viii), respectively;

(2) by inserting after clause (ii) the following new clauses:

"(iii) for which the percent of investment in the hospital by physician investors at any time on or after June 8, 2005, is no greater than the percent of such investment by physician investors as of such date;

"(iv) for which the percent of investment in the hospital by any physician investor at any time on or after June 8, 2005, is no greater than the percent of such investment by such physician as of such date;

"(v) for which the number of operating rooms at the hospital at any time on or after June 8, 2005, is no greater than the number of such rooms as of such date;"; and

(3) by striking clause (vii), as so redesignated, and inserting the following:

"(vii) for which—

"(I) during the period beginning on December 8, 2003, and ending on June 7, 2005, any increase in the number of beds occurs only in the facilities on the main campus of the hospital and does not exceed 50 percent of the number of beds in the hospital as of November 18, 2003, or 5 beds, whichever is greater; and

"(II) the number of beds at the hospital at any time on or after June 8, 2005, is no greater than the number of such beds as of such date; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 8, 2005.

**SEC. 6105. MINIMUM UPDATE FOR PHYSICIANS' SERVICES FOR 2006.**

(a) MINIMUM UPDATE FOR 2006.—Section 1848(d) (42 U.S.C. 1395w–4(d)), as amended by section 6110(c), is amended by adding at the end the following new paragraph:

"(7) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall be not less than 1 percent.".

(b) CONFORMING AMENDMENT.—Section 1848(d)(4)(B) (42 U.S.C. 1395w–4(d)(4)(B)) is amended, in the matter preceding clause (i), by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (7)''.

(c) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this section shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

**SEC. 6106. ONE-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.**

Section 1833(t)(7)(D)(i) (42 U.S.C. 1395l(t)(7)(D)(i)) is amended by striking ''January 1, 2006'' and inserting ''January 1, 2007''.

**SEC. 6107. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.**

Section 1881(b)(12) (42 U.S.C. 1395rr(b)(12)) is amended—

(1) in subparagraph (F), in the flush matter at the end, by striking ''Nothing'' and inserting ''Except as provided in subparagraph (G), nothing'';

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

''(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services furnished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005.''.

**SEC. 6108. ONE-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.**

Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2005'' and inserting ''2005, and 2006''.

**SEC. 6109. TRANSFER OF TITLE OF CERTAIN DME TO PATIENT AFTER 13-MONTH RENTAL.**

(a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C. 1395m(a)(7)(A)) is amended to read as follows:

''(A) PAYMENT.—In the case of an item of durable medical equipment not described in

1 paragraphs (2) through (6), the following rules
2 shall apply:
3 "(i) RENTAL.—
4 "(I) IN GENERAL.—Payment for
5 the item shall be made on a monthly
6 basis for the rental of the item during
7 the period of medical need (but pay-
8 ments under this clause may not ex-
9 tend over a period of continuous use
10 (as determined by the Secretary) of
11 longer than 13 months).
12 "(II) PAYMENT AMOUNT.—Sub-
13 ject to subparagraph (B), the amount
14 recognized for the item—
15 "(aa) for each of the first 3
16 months of such period is 10 per-
17 cent of the purchase price recog-
18 nized under paragraph (8) with
19 respect to the item; and
20 "(bb) for each of the re-
21 maining months of such period is
22 7.5 percent of such purchase
23 price.
24 "(ii) OWNERSHIP AFTER RENTAL.—

"(I) TRANSFER OF TITLE.—On the first day that begins after the 13th continuous month during which payment is made for the rental of an item under clause (i), the supplier of the item shall transfer title to the item to the individual.

"(II) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under subclause (I), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished for which the first rental month occurs on or after January 1, 2006.

**SEC. 6110. ESTABLISHMENT OF MEDICARE VALUE-BASED PURCHASING PROGRAMS.**

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

"PART E—VALUE-BASED PURCHASING

"QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED PURCHASING PROGRAMS

"SEC. 1860E–1. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall develop quality measurement systems in accordance with subsections (b), (c), (d), and (e), for purposes of providing value-based payments to—

"(A) hospitals pursuant to section 1860E–2;

"(B) physicians and practitioners pursuant to section 1860E–3;

"(C) plans pursuant to section 1860E–4;

"(D) end stage renal disease providers and facilities pursuant to section 1860E–5; and

"(E) home health agencies pursuant to section 1860E–6.

1 "(2) QUALITY.—The systems developed under
2 paragraph (1) shall measure the quality of the care
3 furnished by the provider involved.
4 "(3) HIGH QUALITY HEALTH CARE DEFINED.—
5 In this part, the term 'high quality health care'
6 means health care that is safe, effective, patient-cen-
7 tered, timely, equitable, efficient, necessary, and ap-
8 propriate.
9 "(b) REQUIREMENTS FOR SYSTEMS.—Under each
10 quality measurement system described in subsection
11 (a)(1), the Secretary shall do the following:
12 "(1) MEASURES.—
13 "(A) IN GENERAL.—Subject to subpara-
14 graph (B), the Secretary shall select measures
15 of quality to be used by the Secretary under
16 each system.
17 "(B) REQUIREMENTS.—In selecting the
18 measures to be used under each system pursu-
19 ant to subparagraph (A), the Secretary shall, to
20 the extent feasible and practicable, ensure
21 that—
22 "(i) such measures are evidence-
23 based, reliable and valid, actionable, and
24 reasonable to collect and report;

1 "(ii) measures of process, structure,
2 outcomes, and beneficiary experience of
3 care are included;
4 "(iii) except for the system that is
5 used to provide value-based payments to
6 physicians and practitioners under section
7 1860E–3, measures of efficiency (where ef-
8 ficiency is improved quality care through
9 the effective use of resources) are included;
10 "(iv) measures of overuse and
11 underuse of health care items and services
12 are included;
13 "(v)(I) at least 1 measure of health
14 information technology infrastructure that
15 enables the provision of high quality health
16 care and facilitates the exchange of health
17 information, such as the use of 1 or more
18 elements of a qualified health information
19 system (as defined in subparagraph (E)),
20 is included during the first year each sys-
21 tem is implemented; and
22 "(II) additional measures of health in-
23 formation technology infrastructure are in-
24 cluded in subsequent years;

"(vi) in the case of the system that is used to provide value-based payments to hospitals under section 1860E–2, by not later than January 1, 2008, at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas are included; and

"(vii) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple complex chronic conditions are included.

"(C) REQUIREMENT FOR COLLECTION OF DATA ON A MEASURE FOR 1 YEAR PRIOR TO USE UNDER THE SYSTEMS.—Data on any measure selected by the Secretary under subparagraph (A) must be collected by the Secretary for at least a 12-month period before such measure may be used to determine whether a provider receives a value-based payment under a program described in subsection (a)(1).

"(D) AUTHORITY TO VARY MEASURES.—The Secretary may vary the measures selected under subparagraph (A) by the entity or indi-

1 vidual involved based on factors such as the
2 type of, the size of, and the scope and volume
3 of services provided by, the entity or individual.
4 If the Secretary varies the measures for pro-
5 viders under the preceding sentence, the Sec-
6 retary shall ensure that such measures are
7 aligned to promote coordinated quality of care
8 across provider settings.

9 ''(E) QUALIFIED HEALTH INFORMATION
10 SYSTEM DEFINED.—For purposes of subpara-
11 graph (B)(iv)(I), the term 'qualified health in-
12 formation system' means a computerized sys-
13 tem (including hardware, software, and train-
14 ing) that—

15 ''(i) protects the privacy and security
16 of health information and properly
17 encrypts such health information;

18 ''(ii) maintains and provides access to
19 patients' health records in an electronic
20 format;

21 ''(iii) incorporates decision support
22 software to reduce medical errors and en-
23 hance health care quality;

"(iv) is consistent with data standards and certification processes recommended by the Secretary;

"(v) allows for the reporting of quality measures; and

"(vi) includes other features determined appropriate by the Secretary.

"(2) WEIGHTS OF MEASURES.—The Secretary shall assign weights to the measures used by the Secretary under each system. If the Secretary determines appropriate, in assigning the weights under the preceding sentence, some measures may be weighted more heavily than other measures.

"(3) RISK ADJUSTMENT.—The Secretary shall establish procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics. To the extent feasible, such procedures may be based on existing models for controlling for such differences.

"(4) MAINTENANCE.—

"(A) IN GENERAL.—The Secretary shall, as determined appropriate, but not more often than once each 12-month period, review and revise each system, including through—

"(i) the refinement of measures under the systems and the retirement of existing outdated measures under the system;

"(ii) the refinement of the weights assigned to measures under the system; and

"(iii) the refinement of the risk adjustment procedures established pursuant to paragraph (3) under the system.

"(B) REVISION SHALL ALLOW FOR COMPARISON OF DATA.—Each revision under subparagraph (A) of a quality measurement system shall allow for the comparison of data from one year to the next for purposes of providing value-based payments under the programs described in subsection (a)(1).

"(5) USE OF MOST RECENT QUALITY DATA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use the most recent quality data with respect to the provider involved that is available to the Secretary.

"(B) INSUFFICIENT DATA DUE TO LOW VOLUME.—If the Secretary determines that there is insufficient data with respect to a measure or measures because of a low number

of services provided, the Secretary may aggregate data across more than 1 fiscal or calendar year, as the case may be.

"(c) REQUIREMENTS FOR DEVELOPING AND REVIEWING AND REVISING THE SYSTEMS.—In developing and reviewing and revising each quality measurement system under this section, the Secretary shall—

"(1) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

"(2) consult with provider-based groups, clinical specialty societies, and certification boards;

"(3) take into account existing quality measurement systems that have been developed through a rigorous process of validation and with the involvement of entities and persons described in subsection (e)(2)(B); and

"(4) take into account—

"(A) each of the reports by the Medicare Payment Advisory Commission that are required under section 1860E–3(a)(1);

"(B) the results of appropriate studies, reports, and demonstration programs; and

"(C) the report by the Institute of Medicine of the National Academy of Sciences under

1 section 238(b) of the Medicare Prescription
2 Drug, Improvement, and Modernization Act of
3 2003 (Public Law 108–173).

4 "(d) REQUIREMENTS FOR IMPLEMENTING THE SYS-
5 TEMS.—In implementing each quality measurement sys-
6 tem under this section, the Secretary shall consult with
7 entities—

8 "(1) that have joined together to develop strate-
9 gies for quality measurement and reporting, includ-
10 ing the feasibility of collecting and reporting mean-
11 ingful data on quality measures; and

12 "(2) that involve representatives of health care
13 providers, health plans, consumers, employers, pur-
14 chasers, quality experts, government agencies, and
15 other individuals and groups that are interested in
16 quality of care.

17 "(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE
18 ADVICE AND RECOMMENDATIONS.—

19 "(1) ARRANGEMENT.—On and after July 1,
20 2006, the Secretary shall have in place an arrange-
21 ment with an entity that meets the requirements de-
22 scribed in paragraph (2) under which such entity
23 provides the Secretary with advice on, and rec-
24 ommendations with respect to, the development and
25 review and revision of the quality measurement sys-

1 tems under this section, including the assigning of
2 weights to the measures under subsection (b)(2).
3 ''(2) REQUIREMENTS DESCRIBED.—The re-
4 quirements described in this paragraph are the fol-
5 lowing:
6 ''(A) The entity is a private nonprofit enti-
7 ty governed by an executive director and a
8 board.
9 ''(B) The members of the entity include
10 representatives of—
11 ''(i)(I) health plans and providers re-
12 ceiving reimbursement under this title for
13 the provision of items and services, includ-
14 ing health plans and providers with experi-
15 ence in the care of the frail elderly and in-
16 dividuals with multiple complex chronic
17 conditions; or
18 ''(II) groups representing such health
19 plans and providers;
20 ''(ii) groups representing individuals
21 receiving benefits under this title;
22 ''(iii) purchasers and employers or
23 groups representing purchasers or employ-
24 ers;

1 "(iv) organizations that focus on qual-
2 ity improvement as well as the measure-
3 ment and reporting of quality measures;
4 "(vi) organizations that certify and li-
5 cense such providers;
6 "(vi) State government health pro-
7 grams;
8 "(vii) persons skilled in the conduct
9 and interpretation of biomedical, health
10 services, and health economics research
11 and with expertise in outcomes and effec-
12 tiveness research and technology assess-
13 ment; and
14 "(viii) persons or entities involved in
15 the development and establishment of
16 standards and certification for health in-
17 formation technology systems and clinical
18 data.
19 "(C) The membership of the entity is rep-
20 resentative of individuals with experience
21 with—
22 "(i) urban health care issues;
23 "(ii) safety net health care issues; and
24 "(iii) rural and frontier health care
25 issues.

"(D) The entity does not charge a fee for membership for participation in the work of the entity related to the arrangement with the Secretary under paragraph (1). If the entity does require a fee for membership for participation in other functions of the entity, there shall be no linkage between such fee and participation in the work of the entity related to such arrangement with the Secretary.

"(E) The entity—

"(i) permits members described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

"(ii) ensures that such members have an equal vote on such matters.

"(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

"(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

"(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this subsection, there are authorized to be appropriated—

"(A) for each of the fiscal years 2006 and 2007, $3,000,000; and

"(B) for fiscal year 2008 and each subsequent fiscal year, an amount equal to the sum of—

"(i) $3,000,000; and

"(ii) such amount multiplied by the percentage (if any) by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with June of the calendar year in which such fiscal year begins exceeds such average for the 12-month period ending with June 2006.

"PPS HOSPITAL VALUE-BASED PURCHASING PROGRAM

"SEC. 1860E–2. (a) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which value-based payments

are provided each fiscal year to hospitals that demonstrate the provision of high quality health care to individuals who are entitled to benefits under part A and are inpatients of the hospital.

"(2) PROGRAM TO BEGIN IN FISCAL YEAR 2007.—The Secretary shall establish the program under this section so that value-based payments described in subsection (b) are made with respect to fiscal year 2007 and each subsequent fiscal year.

"(3) APPLICABILITY OF PROGRAM TO HOSPITALS.—For purposes of this section, the term 'hospital' means a subsection (d) hospital (as defined in section 1886(d)(1)(B)).

"(b) VALUE-BASED PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make a value-based payment to a hospital with respect to a fiscal year if the Secretary determines that the quality of the care provided in that year to individuals who are entitled to benefits under part A and are inpatients of the hospital—

"(A) has substantially improved (as determined by the Secretary) over the prior year; or

"(B) exceeds a threshold established by the Secretary.

"(2) USE OF SYSTEM.—In determining which hospitals qualify for a value-based payment under paragraph (1), the Secretary shall use the quality measurement system developed for this section pursuant to section 1860E–1(a).

"(3) DETERMINATION OF AMOUNT OF AWARD AND ALLOCATION OF AWARDS.—

"(A) IN GENERAL.—The Secretary shall determine—

"(i) the amount of a value-based payment under paragraph (1) provided to a hospital; and

"(ii) subject to subparagraph (B), the allocation of the total amount available under subsection (d) for value-based payments for any fiscal year between payments with respect to hospitals that meet the requirement under subparagraph (A) of paragraph (1) and hospitals that meet the requirement under subparagraph (B) of such paragraph.

"(B) REQUIREMENTS REGARDING THE AMOUNT OF FUNDING AVAILABLE FOR VALUE-BASED PAYMENTS FOR HOSPITALS EXCEEDING

A THRESHOLD.—The Secretary shall ensure that—

"(i) a majority of the total amount available under subsection (d) for value-based payments for any fiscal year is provided to hospitals that are receiving such payments because they meet the requirement under paragraph (1)(B); and

"(ii) with respect to fiscal year 2008 and each subsequent fiscal year, the percentage of the total amount available under subsection (d) for value-based payments for any fiscal year that is used to make payments to hospitals that meet such requirement is greater than such percentage in the previous fiscal year.

"(4) REQUIREMENTS.—

"(A) REQUIRED SUBMISSION OF DATA.—In order for a hospital to be eligible for a value-based payment for a fiscal year, the hospital must have complied with the requirements under section 1886(b)(3)(B)(viii)(II) with respect to that fiscal year.

"(B) ATTESTATION REGARDING DATA.—In order for a hospital to be eligible for a value-

based payment for a fiscal year, the hospital must have provided the Secretary (under procedures established by the Secretary) with an attestation that the data submitted under section 1886(b)(3)(B)(viii)(II) for the fiscal year is complete and accurate.

"(5) TOTAL AMOUNT OF VALUE-BASED PAYMENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE FUNDING.—The Secretary shall establish payment amounts under paragraph (3)(A) so that, as estimated by the Secretary, the total amount of value-based payments made in a fiscal year under paragraph (1) is equal to the total amount available under subsection (d) for such payments for the year.

"(6) PAYMENT METHODS AND TIMING OF PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the payment of value-based payments under paragraph (1) shall be based on such a method as the Secretary determines appropriate.

"(B) TIMING.—The Secretary shall ensure that value-based payments under paragraph (1) with respect to a fiscal year are made by not later than the close of the following fiscal year.

"(c) DESCRIPTION OF HOW HOSPITALS WOULD HAVE FARED UNDER PROGRAM.—Not later than January 1, 2007, the Secretary shall provide each hospital with a description of the Secretary's estimate of how payments to the hospital under this title would have been affected with respect to items and services furnished during a period, as determined by the Secretary, if the program under this section (and the amendments made by paragraphs (1) and (2) of section 6110(b) of the Deficit Reduction Omnibus Reconciliation Act of 2005) had been in effect with respect to that period.

"(d) FUNDING.—

"(1) AMOUNT.—The amount available for value-based payments under this section with respect to a fiscal year shall be equal to the amount of the reduction in expenditures under the Federal Hospital Insurance Trust Fund under section 1817 in the year as a result of the amendments made by section 6110(b)(2) of the Deficit Reduction Omnibus Reconciliation Act of 2005, as estimated by the Secretary.

"(2) PAYMENTS FROM TRUST FUND.—Payments to hospitals under this section shall be made from the Federal Hospital Insurance Trust Fund.

1 "PHYSICIAN AND PRACTITIONER VALUE-BASED
2 PURCHASING PROGRAM
3 "SEC. 1860E–3. (a) PROGRAM.—
4 "(1) IN GENERAL.—The Secretary shall estab-
5 lish a program under which value-based payments
6 are provided each year to physicians and practi-
7 tioners that demonstrate the provision of high qual-
8 ity health care to individuals enrolled under part B
9 and the Medicare Payment Advisory Commission
10 shall (A) conduct a study, and submit to Congress
11 and the Secretary an initial report by not later than
12 March 1, 2008, and a final report by not later than
13 June 1, 2012, on how the Medicare value-based pur-
14 chasing programs under this part will impact Medi-
15 care beneficiaries, Medicare providers, and Medicare
16 financing, including how such programs will impact
17 the access of such beneficiaries to items and services
18 under this title, the volume and utilization of such
19 items and services, and low-volume providers; and
20 (B) conduct a study, and submit to Congress and
21 the Secretary a report by not later than March 1,
22 2007, on the advisability and feasibility of estab-
23 lishing a value-based purchasing program under the
24 this title for critical access hospitals (as defined in
25 section 1861(mm)(1)); and (C) conduct a study, and

1 submit to Congress and the Secretary a report by
2 not later than June 1, 2007, on the advisability and
3 feasibility of including renal dialysis facilities de-
4 scribed in subsection (a)(3)(A) of section 1860E–5
5 in the value-based purchasing program under such
6 section 1860E–5 or establishing a value-based pur-
7 chasing program under this title for such facilities;
8 (D) taking into account the results to date of the
9 demonstration of bundled case-mix adjusted pay-
10 ment system for ESRD services under section
11 623(e) of the Medicare Prescription Drug, Improve-
12 ment, and Modernization Act of 2003, conduct a
13 study, and submit to Congress and the Secretary a
14 report by not later than June 1, 2008, on the imple-
15 mentation of the ESRD provider and facility value-
16 based purchasing program under section 1860E–5,
17 including issues for the Secretary to consider in op-
18 erating the ESRD provider and facility value-based
19 purchasing program and recommendations on such
20 issues; and (E) conduct a study, and submit to Con-
21 gress and the Secretary a report by not later than
22 June 1, 2007, on the advisability and feasibility of
23 establishing a value-based purchasing program
24 under this title for skilled nursing facilities (as de-
25 fined in section 1819(a)).

"(2) PROGRAM TO BEGIN IN 2009.—The Secretary shall establish the program under this section so that value-based payments described in subsection (b) are made with respect to 2009 and each subsequent year.

"(3) DEFINITION OF PHYSICIAN AND PRACTITIONER.—In this section:

"(A) PHYSICIAN.—The term 'physician' has the meaning given that term in section 1861(r).

"(B) PRACTITIONER.—The term 'practitioner' means—

"(i) a practitioner described in section 1842(b)(18)(C);

"(ii) a physical therapist (as described in section 1861(p));

"(iii) an occupational therapist (as so described); and

"(iv) a qualified speech-language pathologist (as defined in section 1861(ll)(3)(A)).

"(4) IDENTIFICATION OF PHYSICIANS AND PRACTITIONERS.—For purposes of applying this section and paragraphs (4)(G) and (6) of section 1848(d), the Secretary shall establish procedures for

1 the identification of physicians and practitioners,
2 such as through physician or practitioner billing
3 units or other units, provider identification numbers,
4 taxpayer identification numbers, the National Pro-
5 vider Identifier, and unique physician identifier
6 numbers.
7 "(b) VALUE-BASED PAYMENTS.—
8 "(1) IN GENERAL.—Subject to paragraph (4),
9 the Secretary shall make a value-based payment to
10 a physician or a practitioner with respect to a year
11 if the Secretary determines that both the quality of
12 the care and the efficiency of the care provided in
13 that year by the physician or practitioner to individ-
14 uals enrolled under part B—
15 "(A) has substantially improved (as deter-
16 mined by the Secretary) over the prior year; or
17 "(B) exceeds a threshold established by the
18 Secretary.
19 "(2) USE OF SYSTEMS AND DATA.—
20 "(A) IN GENERAL.—In determining which
21 physicians and practitioners qualify for a value-
22 based payment under paragraph (1), the Sec-
23 retary shall use—
24 "(i) the quality measurement system
25 developed for this section pursuant to sec-

tion 1860E–1(a) with respect to the quality of the care provided by the physician or practitioner; and

"(ii) the comparative utilization system developed under subsection (c) with respect to the efficiency and appropriateness of such care.

"(3) DETERMINATION OF AMOUNT OF AWARD AND ALLOCATION OF AWARDS.—

"(A) IN GENERAL.—The Secretary shall determine—

"(i) the amount of a value-based payment under paragraph (1) provided to a physician or a practitioner; and

"(ii) subject to subparagraph (B), the allocation of the total amount available under subsection (e) for value-based payments for any year between payments with respect to physicians and practitioners that meet the requirement under subparagraph (A) of paragraph (1) and physicians and practitioners that meet the requirement under subparagraph (B) of such paragraph.

"(B) REQUIREMENTS REGARDING THE AMOUNT OF FUNDING AVAILABLE FOR VALUE-BASED PAYMENTS FOR PHYSICIANS AND PRACTITIONERS EXCEEDING A THRESHOLD.—The Secretary shall ensure that—

"(i) a majority of the total amount available under subsection (e) for value-based payments for any year is provided to physicians and practitioners that are receiving such payments because they meet the requirement under paragraph (1)(B); and

"(ii) with respect to 2010 and each subsequent year, the percentage of the total amount available under subsection (e) for value-based payments for any year that is used to make payments to physicians and practitioners that meet such requirement is greater than such percentage in the previous year.

"(4) REQUIREMENTS.—

"(A) REQUIRED SUBMISSION OF DATA.—In order for a physician or a practitioner to be eligible for a value-based payment for a year, the physician or practitioner must have com-

plied with the requirements under section 1848(d)(6)(B)(ii) with respect to that year.

"(B) ATTESTATION REGARDING DATA.—In order for a physician or a practitioner to be eligible for a value-based payment for a year, the physician or practitioner must have provided the Secretary (under procedures established by the Secretary) with an attestation that the data submitted under section 1848(d)(6)(B)(ii) with respect to that year is complete and accurate.

"(5) TOTAL AMOUNT OF VALUE-BASED PAYMENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE FUNDING.—The Secretary shall establish payment amounts under paragraph (3)(A) so that, as estimated by the Secretary, the total amount of value-based payments made in a year under paragraph (1) is equal to the total amount available under subsection (e) for such payments for the year.

"(6) PAYMENT METHODS AND TIMING OF PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the payment of value-based payments under paragraph (1) shall be based on such a method as the Secretary determines appropriate.

"(B) TIMING.—The Secretary shall ensure that value-based payments under paragraph (1) with respect to a year are made by not later than December 31 of the subsequent year.

"(c) COMPARATIVE UTILIZATION SYSTEM.—

"(1) DEVELOPMENT.—The Secretary, in consultation with relevant stakeholders, shall develop a comparative utilization system for purposes of providing value-based payments under subsection (b).

"(2) MEASURES OF EFFICIENCY AND APPROPRIATENESS OF CARE.—The comparative utilization system developed under paragraph (1) shall measure the efficiency and appropriateness of the care provided by a physician or practitioner.

"(3) REQUIREMENTS FOR SYSTEM.—Under the comparative utilization system described in paragraph (1), the Secretary shall do the following:

"(A) MEASURES.—The Secretary shall select measures of efficiency appropriateness to be used by the Secretary under the system. The Secretary may vary the measures selected under the preceding sentence by the type or specialty of the physician or practitioner. If the Secretary varies the measures for providers under the preceding sentence, the Secretary shall ensure that

1 such measures are aligned to promote coordi-
2 nated quality of care across provider settings.
3 "(B) USE OF CLAIMS DATA FOR UTILIZA-
4 TION PATTERNS.—
5 "(i) REVIEW OF CLAIMS DATA.—The
6 Secretary shall review claims data with re-
7 spect to services furnished or ordered by
8 physicians and practitioners.
9 "(ii) USE OF MOST RECENT CLAIMS
10 DATA.—The Secretary shall use the most
11 recent claims data with respect to the phy-
12 sician or practitioner that is available to
13 the Secretary.
14 "(C) RISK ADJUSTMENT.—The Secretary
15 shall establish procedures, as appropriate, to
16 control for differences in beneficiary health sta-
17 tus and beneficiary characteristics.
18 "(4) ANNUAL REPORTS.—Beginning in 2007,
19 the Secretary shall provide physicians and practi-
20 tioners with annual reports on the utilization of
21 items and services under this title based upon the
22 review of claims data under paragraph (3)(B). With
23 respect to reports provided in 2007 and 2008, such
24 reports are confidential and the Secretary shall not
25 make such reports available to the public.

"(d) DESCRIPTION OF HOW PHYSICIANS AND PRACTITIONERS WOULD HAVE FARED UNDER PROGRAM.—Not later than March 1, 2009, the Secretary shall provide each physician and practitioner with a description of the Secretary's estimate of how payments to the physician or practitioner under this title would have been affected with respect to items and services furnished during a period, as determined by the Secretary, if the program under this section (and the amendments made by paragraphs (1) and (2) of section 6110(c) of the Deficit Reduction Omnibus Reconciliation Act of 2005) had been in effect with respect to that period.

"(e) FUNDING.—

"(1) AMOUNT.—The amount available for value-based payments under this section with respect to a year shall be equal to the amount of the reduction in expenditures under the Federal Supplementary Medical Insurance Trust Fund under section 1841 in the year as a result of the amendments made by section 6110(c)(2) of the Deficit Reduction Omnibus Reconciliation Act of 2005, as estimated by the Secretary.

"(2) PAYMENTS FROM TRUST FUND.—Payments to physicians and practitioners under this sec-

1 tion shall be made from the Federal Supplementary
2 Medical Insurance Trust Fund.
3 "PLAN VALUE-BASED PURCHASING PROGRAM
4 "SEC. 1860E–4. (a) PROGRAM.—
5 "(1) IN GENERAL.—The Secretary shall estab-
6 lish a program under which value-based payments
7 are provided each year to Medicare Advantage orga-
8 nizations offering Medicare Advantage plans under
9 part C that demonstrate the provision of high qual-
10 ity health care to enrollees under the plan.
11 "(2) PROGRAM TO BEGIN IN 2009.—The Sec-
12 retary shall establish the program under this section
13 so that value-based payments under subsection (b)
14 are made with respect to 2009 and each subsequent
15 year.
16 "(3) DEFINITIONS OF MEDICARE ADVANTAGE
17 ORGANIZATION AND PLAN.—
18 "(A) IN GENERAL.—In this section:
19 "(i) MEDICARE ADVANTAGE ORGANI-
20 ZATION.—The term 'Medicare Advantage
21 organization' has the meaning given such
22 term in section 1859(a)(1).
23 "(ii) MEDICARE ADVANTAGE PLAN.—
24 The term 'Medicare Advantage plan' has
25 the meaning given such term in section
26 1859(b)(1).

"(B) APPLICABILITY OF PROGRAM TO MEDICARE ADVANTAGE REGIONAL AND LOCAL PLANS.—For purposes of this section, the term 'Medicare Advantage plan' shall include both Medicare Advantage regional plans (as defined in section 1859(b)(4)) and Medicare Advantage local plans (as defined in section 1859(b)(5)).

"(C) APPLICABILITY OF PROGRAM TO REASONABLE COST CONTRACTS.—Except for paragraphs (5) and (6) of subsection (b), for purposes of this section, the terms—

"(i) 'Medicare Advantage organization' and 'organization' include an organization that is providing benefits under a reasonable cost reimbursement contract under section 1876(h); and

"(ii) 'Medicare Advantage plan' and 'plan' include such a contract.

"(b) VALUE-BASED PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make value-based payments to Medicare Advantage organizations with respect to each Medicare Advantage plan offered by the organization during a year if the Secretary determines that the quality of the care provided under the plan—

"(A) has substantially improved (as determined by the Secretary) over the prior year; or

"(B) exceeds a threshold established by the Secretary.

"(2) USE OF SYSTEM.—In determining which organizations offering Medicare Advantage plans qualify for a value-based payment under paragraph (1), the Secretary shall—

"(A) use the quality measurement system developed for this section pursuant to section 1860E–1(a); and

"(B) ensure that awards are based on data from a full 12-month period (or 24-month period in the case of an award described in paragraph (1)(A)), such periods determined without regard to calendar year periods.

"(3) DETERMINATION OF AMOUNT OF AWARD AND ALLOCATION OF AWARDS.—

"(A) IN GENERAL.—The Secretary shall determine—

"(i) the amount of a value-based payment under paragraph (1) provided to an organization with respect to a plan; and

"(ii) subject to subparagraph (B), the allocation of the total amount available

under subsection (d) for value-based payments for any year between payments with respect to plans that meet the requirement under subparagraph (A) of paragraph (1) and plans that meet the requirement under subparagraph (B) of such paragraph.

"(B) REQUIREMENT REGARDING THE AMOUNT OF FUNDING AVAILABLE FOR VALUE-BASED PAYMENTS FOR PLANS EXCEEDING A THRESHOLD.—The Secretary shall ensure that—

"(i) a majority of the total amount available under subsection (d) for value-based payments for any year is provided to organizations, with respect to plans offered by such organizations, that are receiving such payments because they meet the requirement under paragraph (1)(B); and

"(ii) with respect to 2010 and each subsequent year, the percentage of the total amount available under subsection (d) for value-based payments for any year that is used to make payments to organizations, with respect to plans offered by such organizations, that meet such requirement is

1 greater than such percentage in the pre-
2 vious year.
3 "(4) USE OF PAYMENTS.—Value-based pay-
4 ments received under this section may only be used
5 for the following purposes:
6 "(A) To invest in quality improvement pro-
7 grams operated by the organization with respect
8 to the plan.
9 "(B) To enhance beneficiary benefits under
10 the plan.
11 "(5) REQUIRED SUBMISSION OF DATA.—In
12 order for an organization to be eligible for a value-
13 based payment for a year with respect to a Medicare
14 Advantage plan or a reasonable cost contract, the
15 organization must have provided for the collection,
16 analysis, and reporting of data pursuant to sections
17 1852(e)(3) (or submitted the data under section
18 1876(h)(6) in the case of a reasonable cost contract)
19 with respect to the plan or contract for the 2 years
20 preceding that year.
21 "(6) NO EFFECT ON MEDICARE ADVANTAGE
22 PLAN BIDS.—In order for a Medicare Advantage or-
23 ganization to be eligible for a value-based payment
24 for a year with respect to a Medicare Advantage
25 plan, the organization must have provided the Sec-

retary with an attestation that the program under this section, including the payment adjustments made by reason of the amendments made by section 6110(d)(2)(A) of the Deficit Reduction Omnibus Reconciliation Act of 2005, had no effect on the integrity and actuarial soundness of the bid submitted under section 1854 for the plan for the year.

"(7) TOTAL AMOUNT OF VALUE-BASED PAYMENTS EQUAL TO TOTAL AMOUNT OF REDUCTION IN PAYMENTS.—The Secretary shall establish payment amounts under paragraph (3)(A) so that, as estimated by the Secretary, the total amount of value-based payments made in a year under paragraph (1) is equal to the total amount available under subsection (d) for such payments for the year.

"(8) PAYMENT METHODS AND TIMING OF PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the payment of value-based payments under paragraph (1) shall be based on such a method as the Secretary determines appropriate.

"(B) TIMING.—The Secretary shall ensure that value-based payments under paragraph (1)

with respect to a year are made by not later than March 1 of the subsequent year.

"(c) DESCRIPTION OF HOW PLANS WOULD HAVE FARED UNDER PROGRAM.—Not later than March 1, 2009, the Secretary shall provide each Medicare Advantage organization offering a Medicare Advantage plan with a description of the Secretary's estimate of how payments under this title to such organization with respect to the plan for a period, as determined by the Secretary, would have been affected if the program under this section (and the amendments made by section 6110(d) of the Deficit Reduction Omnibus Reconciliation Act of 2005) had been in effect with respect to that period.

"(d) FUNDING.—

"(1) AMOUNT.—The amount available for value-based payments under this section with respect to a year shall be equal to the amount of the reduction in expenditures under the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 in the year as a result of the amendments made by section 6110(d)(2) of the Deficit Reduction Omnibus Reconciliation Act of 2005, as estimated by the Secretary.

1 "(2) PAYMENTS FROM TRUST FUNDS.—Pay-
2 ments to organizations under this section shall be
3 made from the Federal Hospital Insurance Trust
4 Fund and the Federal Supplementary Medical In-
5 surance Trust Fund in the same proportion as pay-
6 ments to Medicare Advantage organizations are
7 made from such Trust Funds under the first sen-
8 tence of section 1853(f).

9 "ESRD PROVIDER AND FACILITY VALUE-BASED
10 PURCHASING PROGRAM

11 "SEC. 1860E–5. (a) PROGRAM.—

12 "(1) IN GENERAL.—The Secretary shall estab-
13 lish a program under which value-based payments
14 are provided each year to providers of services and
15 renal dialysis facilities that—

16 "(A) provide items and services to individ-
17 uals with end stage renal disease who are en-
18 rolled under part B; and

19 "(B) demonstrate the provision of high
20 quality health care to such individuals.

21 "(2) PROGRAM TO BEGIN IN 2007.—The Sec-
22 retary shall establish the program under this section
23 so that value-based payments described in subsection
24 (b) are made with respect to 2007 and each subse-
25 quent year.

26 "(3) EXCLUSIONS FROM PROGRAM.—

"(A) PEDIATRIC FACILITIES.—Any renal dialysis facility at least 50 percent of whose patients are individuals under 18 years of age shall not be included in the program under this section.

"(B) PROVIDERS AND FACILITIES CURRENTLY PARTICIPATING IN BUNDLED CASE-MIX DEMONSTRATION NOT INCLUDED IN PROGRAM.—Any provider of services or renal dialysis facility that is currently participating in the bundled case-mix adjusted payment system for ESRD services demonstration project under section 623(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) shall not be included in the program under this section, but only for so long as the provider or facility is so participating.

"(b) VALUE-BASED PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make a value-based payment to a provider of services or a renal dialysis facility with respect to a year if the Secretary determines that the quality of the care provided in that year by the

1 provider or facility to individuals with end stage
2 renal disease who are enrolled under part B—
3 "(A) has substantially improved (as deter-
4 mined by the Secretary) over the prior year; or
5 "(B) exceeds a threshold established by the
6 Secretary.
7 "(2) USE OF SYSTEM.—In determining which
8 providers of services and renal dialysis facilities
9 qualify for a value-based payment under paragraph
10 (1), the Secretary shall use the quality measurement
11 system developed for this section pursuant to section
12 1860E–1(a).
13 "(3) DETERMINATION OF AMOUNT OF AWARD
14 AND ALLOCATION OF AWARDS.—
15 "(A) IN GENERAL.—The Secretary shall
16 determine—
17 "(i) the amount of a value-based pay-
18 ment under paragraph (1) provided to a
19 provider of services or a renal dialysis fa-
20 cility; and
21 "(ii) subject to subparagraphs (B)
22 and (C), the allocation of the total amount
23 available under subsection (c) for value-
24 based payments for any year between pay-
25 ments with respect to providers and facili-

ties that meet the requirement under subparagraph (A) of paragraph (1) and providers and facilities that meet the requirement under subparagraph (B) of such paragraph.

"(B) REQUIREMENT REGARDING AMOUNT OF FUNDING AVAILABLE FOR VALUE-BASED PAYMENTS FOR PROVIDERS AND FACILITIES EXCEEDING A THRESHOLD.—The Secretary shall ensure that—

"(i) a majority of the total amount available under subsection (c) for value-based payments for any year is provided to providers of services and renal dialysis facilities that are receiving such payments because they meet the requirement under paragraph (1)(B); and

"(ii) with respect to 2009 and each subsequent year, the percentage of the total amount available under subsection (c) for value-based payments for any year that is used to make payments to providers and facilities that meet such requirement is greater than such percentage in the previous year.

"(C) ONLY VALUE-BASED PAYMENTS FOR PROVIDERS AND FACILITIES EXCEEDING A THRESHOLD IN 2007.—With respect to 2007, the entire amount available under subsection (c) for value-based payments for that year shall be used to make payments to providers of services and renal dialysis facilities that meet the requirement under paragraph (1)(B).

"(4) REQUIREMENTS.—

"(A) REQUIRED SUBMISSION OF DATA.—

"(i) IN GENERAL.—In order for a provider of services or a renal dialysis facility to be eligible for a value-based payment for a year, the provider or facility must have provided for the submission of data in accordance with clause (ii) with respect to that year.

"(ii) SUBMISSION OF DATA.—For 2007 and each subsequent year, each provider of services and renal dialysis facility that receives payments under paragraph (12) shall submit to the Secretary such data that the Secretary determines is appropriate for the measurement of health outcomes and other indices of quality, in-

1 cluding data necessary for the operation of
2 the program under this section. Such data
3 shall be submitted in a form and manner,
4 and at a time, specified by the Secretary
5 for purposes of this clause.

6 "(iii) AVAILABILITY TO THE PUB-
7 LIC.—The Secretary shall establish proce-
8 dures for making data submitted under
9 clause (ii) available to the public in a clear
10 and understandable form. Such procedures
11 shall ensure that a provider or facility has
12 the opportunity to review the data that is
13 to be made public with respect to the pro-
14 vider or facility prior to such data being
15 made public.

16 "(B) ATTESTATION REGARDING DATA.—In
17 order for a provider of services or a renal dialy-
18 sis facility to be eligible for a value-based pay-
19 ment for a year, the provider or facility must
20 have provided the Secretary (under procedures
21 established by the Secretary) with an attesta-
22 tion that the data submitted under subpara-
23 graph (A)(ii) for the year is complete and accu-
24 rate.

"(5) TOTAL AMOUNT OF VALUE-BASED PAYMENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE FUNDING.—The Secretary shall establish payment amounts under paragraph (3)(A) so that, as estimated by the Secretary, the total amount of value-based payments made in a year under paragraph (1) is equal to the total amount available under subsection (c) for such payments for the year.

"(6) PAYMENT METHODS AND TIMING OF PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the payment of value-based payments under paragraph (1) shall be based on such a method as the Secretary determines appropriate.

"(B) TIMING.—The Secretary shall ensure that value-based payments under paragraph (1) with respect to a year are made by not later than December 31 of the subsequent year.

"(c) FUNDING.—

"(1) AMOUNT.—The amount available for value-based payments under this section with respect to a year shall be equal to the amount of the reduction in expenditures under the Federal Supplementary Medical Insurance Trust Fund under sec-

1 tion 1841 in the year by reason of the application
2 of section 1881(b)(12)(G), as estimated by the Sec-
3 retary.
4 "(2) PAYMENTS FROM TRUST FUND.—Pay-
5 ments to providers of services and renal dialysis fa-
6 cilities under this section shall be made from the
7 Federal Supplementary Medical Insurance Trust
8 Fund.
9 "HOME HEALTH AGENCY VALUE-BASED PURCHASING
10 PROGRAM
11 "SEC. 1860E–6. (a) PROGRAM.—
12 "(1) IN GENERAL.—The Secretary shall estab-
13 lish a program under which value-based payments
14 are provided each year to home health agencies that
15 demonstrate the provision of high quality health care
16 to individuals entitled to benefits under part A or
17 enrolled under part B.
18 "(2) PROGRAM TO BEGIN IN 2008.—The Sec-
19 retary shall establish the program under this section
20 so that value-based payments described in subsection
21 (b) are made with respect to 2008 and each subse-
22 quent year.
23 "(3) HOME HEALTH AGENCY DEFINED.—In
24 this section, the term "home health agency" has the
25 meaning given that term in section 1861(o).
26 "(b) VALUE-BASED PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (4), the Secretary shall make a value-based payment to a home health agency with respect to a year if the Secretary determines that the quality of the care provided in that year by the agency to individuals entitled to benefits under part A or enrolled under part B—

"(A) has substantially improved (as determined by the Secretary) over the prior year; or

"(B) exceeds a threshold established by the Secretary.

"(2) USE OF SYSTEM.—In determining which home health agencies qualify for a value-based payment under paragraph (1), the Secretary shall use the quality measurement system developed for this section pursuant to section 1860E–1(a).

"(3) DETERMINATION OF AMOUNT OF AWARD AND ALLOCATION OF AWARDS.—

"(A) IN GENERAL.—The Secretary shall determine—

"(i) the amount of a value-based payment under paragraph (1) provided to a home health agency; and

"(ii) subject to subparagraph (B), the allocation of the total amount available

under subsection (d) for value-based payments for any year between payments with respect to agencies that meet the requirement under subparagraph (A) of paragraph (1) and agencies that meet the requirement under subparagraph (B) of such paragraph.

"(B) REQUIREMENTS REGARDING THE AMOUNT OF FUNDING AVAILABLE FOR VALUE-BASED PAYMENTS FOR AGENCIES EXCEEDING A THRESHOLD.—The Secretary shall ensure that—

"(i) a majority of the total amount available under subsection (d) for value-based payments for any year is provided to home health agencies that are receiving such payments because they meet the requirement under paragraph (1)(B); and

"(ii) with respect to 2009 and each subsequent year, the percentage of the total amount available under subsection (d) for value-based payments for any year that is used to make payments to agencies that meet such requirement is greater than such percentage in the previous year.

"(4) REQUIREMENTS.—

"(A) REQUIRED SUBMISSION OF DATA.—In order for a home health agency to be eligible for a value-based payment for a year, the agency must have complied with the requirements under section 1895(b)(3)(B)(v)(II) with respect to that year.

"(B) ATTESTATION REGARDING DATA.—In order for a home health agency to be eligible for a value-based payment for a year, the agency must have provided the Secretary (under procedures established by the Secretary) with an attestation that the data submitted under section 1895(b)(3)(B)(v)(II) with respect to that year is complete and accurate.

"(5) TOTAL AMOUNT OF VALUE-BASED PAYMENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE FUNDING.—The Secretary shall establish payment amounts under paragraph (3)(A) so that, as estimated by the Secretary, the total amount of value-based payments made in a year under paragraph (1) is equal to the total amount available under subsection (d) for such payments for the year.

"(6) PAYMENT METHODS AND TIMING OF PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the payment of value-based payments under paragraph (1) shall be based on such a method as the Secretary determines appropriate.

"(B) TIMING.—The Secretary shall ensure that value-based payments under paragraph (1) with respect to a year are made by not later than December 31 of the subsequent year.

"(c) DESCRIPTION OF HOW AGENCIES WOULD HAVE FARED UNDER PROGRAM.—Not later than January 1, 2008, the Secretary shall provide each home health agency with a description of the Secretary's estimate of how payments to the agency under this title would have been affected with respect to items and services furnished during a period, as determined by the Secretary, if the program under this section (and the amendments made by section 6110(f) of the Deficit Reduction Omnibus Reconciliation Act of 2005) had been in effect with respect to that period.

"(d) FUNDING.—

"(1) AMOUNT.—The amount available for value-based payments under this section with respect to a year shall be equal to the amount of the reduction in expenditures under the Federal Hospital Insurance Trust Fund under section 1817 and Federal

1 Supplementary Medical Insurance Trust Fund under
2 section 1841 in the year as a result of the applica-
3 tion of section 1895(b)(3)(D), as estimated by the
4 Secretary.

5 ''(2) PAYMENTS FROM TRUST FUND.—Pay-
6 ments to home health agencies under this section
7 shall be made from the Federal Hospital Insurance
8 Trust Fund and Federal Supplementary Medical In-
9 surance Trust Fund, in the same proportion as pay-
10 ments for home health services are made from such
11 trust funds.''.

12 (b) HOSPITALS.—

13 (1) VOLUNTARY SUBMISSION OF HOSPITAL
14 QUALITY DATA.—

15 (A) UPDATE FOR HOSPITALS THAT SUB-
16 MIT QUALITY DATA.—Section 1886(b)(3)(B)
17 (42 U.S.C. 1395ww(b)(3)(B)) is amended—

18 (i) in clause (vii)—

19 (I) in subclause (I), by striking
20 ''for each of fiscal years 2005 through
21 2007'' and inserting ''for fiscal years
22 2005 and 2006''; and

23 (II) in subclause (II), by striking
24 ''Each'' and inserting ''For fiscal
25 years 2005 and 2006, each''; and

(ii) by adding at the end the following new clause:

"(viii)(I) For purposes of clause (i)(XX), for fiscal year 2007 and each subsequent fiscal year, in the case of a subsection (d) hospital that does not submit data in accordance with subclause (II) with respect to such a fiscal year, the applicable percentage increase under such clause for such fiscal year shall be reduced by 2 percentage points. Such reduction shall apply only with respect to the fiscal year involved, and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i)(XX) for a subsequent fiscal year.

"(II) For fiscal year 2007 and each subsequent fiscal year, each subsection (d) hospital shall submit to the Secretary such data that the Secretary determines is appropriate for the measurement of health care quality, including data necessary for the operation of the PPS hospital value-based purchasing program under section 1860E–2. Such data shall be submitted in

a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) The Secretary shall establish procedures for making data submitted under subclause (II) available to the public in a clear and understandable form. Such procedures shall ensure that a subsection (d) hospital has the opportunity to review the data that is to be made public with respect to the hospital prior to such data being made public.".

(B) CONFORMING AMENDMENTS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) in subclause (XIX), by striking "2007" and inserting "2006"; and

(ii) in subclause (XX)—

(I) by striking "2008" and inserting "2007"; and

(II) by inserting "subject to clause (viii)," after "fiscal year,".

(2) REDUCTION IN PAYMENTS IN ORDER TO FUND PROGRAM.—

(A) REDUCTION IN PAYMENTS.—Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(i) in clause (iv), by striking ''5 percent nor more than 6 percent'' and inserting ''the applicable lower percent nor more than the applicable upper percent''; and

(ii) by adding at the end the following new clause:

''(vii) For purposes of clause (iv)—

''(I) for fiscal years prior to 2007, the 'lower percent' is 5.0 percent and the 'upper percent' is 6.0 percent;

''(II) for fiscal year 2007, the 'lower percent' is 4.0 percent and the 'upper percent' is 5.0 percent;

''(III) for fiscal year 2008, the 'lower percent' is 3.75 percent and the 'upper percent' is 4.75 percent;

''(IV) for fiscal year 2009, the 'lower percent' is 3.5 percent and the 'upper percent' is 4.5 percent;

''(V) for fiscal year 2010, the 'lower percent' is 3.25 percent and the 'upper percent' is 4.25 percent; and

"(VI) for fiscal year 2011 and each subsequent fiscal year, the 'lower percent' is 3.0 percent and the 'upper percent' is 4.0 percent.".

(B) CONTINUATION OF CURRENT LEVEL OF REDUCTIONS TO THE AVERAGE STANDARDIZED AMOUNT.—Section 1886(d)(3)(B) (42 U.S.C. 1395ww(d)(3)(B)) is amended to read as follows:

"(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS AND FOR FUNDING OF HOSPITAL VALUE-BASED PURCHASING PROGRAM.—

"(i) IN GENERAL.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a factor equal to a fraction—

"(I) the numerator of which is the sum of—

"(aa) the additional payments described in paragraph (5)(A) (relating to outlier payments); and

"(bb) the applicable percent of the total payments projected or estimated to be made based on DRG prospective payment rates for discharges in that year; and

"(II) the denominator of which is the total payments projected or estimated to be made based on DRG prospective payment rates for discharges in that year.

"(ii) APPLICABLE PERCENT.—For purposes of clause (i)(I)(bb), the term 'applicable percent' means—

"(I) for fiscal years prior to fiscal year 2007, 0 percent;

"(II) for fiscal year 2007, 1.0 percent;

"(III) for fiscal year 2008, 1.25 percent;

"(IV) for fiscal year 2009, 1.5 percent;

"(V) for fiscal year 2010, 1.75 percent; and

"(VI) for fiscal year 2011 and each subsequent year, 2.0 percent.".

(3) VALUE-BASED PURCHASING DEMONSTRATION PROGRAM FOR CRITICAL ACCESS HOSPITALS.—

(A) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a 2-year demonstration program under which the Secretary establishes a value-based purchasing program

1 under the Medicare program under title XVIII
2 of the Social Security Act for critical access
3 hospitals (as defined in section 1861(mm)(1) of
4 such Act (42 U.S.C. 1395x(mm)(1)) in order to
5 test innovative methods of measuring and re-
6 warding quality health care furnished by such
7 hospitals.

8 (B) SITES.—The Secretary shall conduct
9 the demonstration program at 6 critical access
10 hospitals. The Secretary shall ensure that such
11 hospitals are representative of the spectrum of
12 such hospitals that participate in the Medicare
13 program.

14 (C) WAIVER AUTHORITY.—The Secretary
15 may waive such requirements of titles XI and
16 XVIII of the Social Security Act as may be nec-
17 essary to carry out the demonstration program.

18 (D) FUNDING.—The Secretary shall pro-
19 vide for the transfer from the Federal Hospital
20 Insurance Trust Fund under section 1817 of
21 the Social Security Act (42 U.S.C. 1395i) of
22 such funds as are necessary for the costs of car-
23 rying out the demonstration program.

24 (E) REPORT.—Not later than 6 months
25 after the demonstration program is completed,

the Secretary shall submit to Congress a report on the demonstration program together with recommendations on the establishment of a permanent value-based purchasing program under the Medicare program for critical access hospitals and recommendations for such other legislation or administrative action as the Secretary determines appropriate.

(c) PHYSICIANS AND PRACTITIONERS.—

(1) VOLUNTARY SUBMISSION OF PHYSICIAN AND PRACTITIONER QUALITY DATA.—

(A) UPDATE FOR PHYSICIANS AND PRACTITIONERS THAT SUBMIT QUALITY DATA.—Section 1848(d)(4) (42 U.S.C. 1395w–4(d)(4)) is amended by adding at the end the following new subparagraph:

"(G) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

"(i) ADJUSTMENT.—For 2007 and each subsequent year, in the case of services furnished by a physician or a practitioner (as defined in section 1860E–3(a)(3)) that does not submit data in accordance with clause (ii) with respect to such a year, the update otherwise deter-

1 mined under subparagraph (A) shall be re-
2 duced by 2 percentage points. Such reduc-
3 tion shall apply only with respect to the
4 year involved, and the Secretary shall not
5 take into account such reduction in com-
6 puting the conversion factor for a subse-
7 quent year.

8 ''(ii) SUBMISSION OF QUALITY
9 DATA.—For 2007 and each subsequent
10 year, each physician and practitioner (as
11 defined in section 1860E–3(a)(3)) shall
12 submit to the Secretary such data that the
13 Secretary determines is appropriate for the
14 measurement of health outcomes and other
15 indices of quality, including data necessary
16 for the operation of the physician and
17 practitioner value-based purchasing pro-
18 gram under section 1860E–3. Such data
19 shall be submitted in a form and manner,
20 and at a time, specified by the Secretary
21 for purposes of this subparagraph.

22 ''(iii) AVAILABLE TO THE PUBLIC.—

23 ''(I) IN GENERAL.—Subject to
24 subclauses (II) and (III), the Sec-
25 retary shall establish procedures for

making data submitted under clause (ii), with respect to items and services furnished on or after January 1, 2008, available to the public in 3 phases as follows:

"(aa) PHASE I.—During phase I, the Secretary shall make available to the public the identity of physicians and practitioners that are submitting such data.

"(bb) PHASE II.—During phase II, the Secretary shall make available to the public the identity of physicians and practitioners that are receiving a value-based payment under section 1860E–3.

"(cc) PHASE III.—During phase III, the Secretary shall make data submitted under clause (ii) available to the public in a clear and understandable form.

"(II) REVIEW.—The procedures established under subclause (I) shall ensure that a physician or practitioner has the opportunity to review the data that is to be made public with respect to the physician or practitioner under subclause (I)(cc) prior to such data being made public.

"(III) EXCEPTIONS.—The Secretary shall establish exceptions to the requirement for making data available to the public under subclause (I). In providing for such exceptions, the Secretary shall take into account the size and specialty representation of the practice involved.".

(B) CONFORMING AMENDMENT.—Section 1848(d)(4)(A) (42 U.S.C. 1395w–4(d)(4)(A)) is amended, in the matter preceding clause (i), by striking "subparagraph (F)" and inserting "subparagraphs (F) and (G)".

(2) REDUCTION IN CONVERSION FACTOR FOR PHYSICIANS AND PRACTITIONERS THAT SUBMIT QUALITY DATA IN ORDER TO FUND PROGRAM.—

(A) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

"(6) REDUCTION IN CONVERSION FACTOR FOR PHYSICIANS AND PRACTITIONERS IN ORDER TO FUND VALUE-BASED PURCHASING PROGRAM.—

"(A) IN GENERAL.—For 2009 and each subsequent year, the single conversion factor otherwise applicable under this subsection to services furnished in the year by a physician or a practitioner (as defined in section 1860E–3(a)(3)) that complies with the requirements under paragraph (4)(G)(ii) for the year (determined after application of the update under paragraph (4)) shall be reduced by the applicable percent.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A), the term 'applicable percent' means—

"(i) for 2009, 1.0 percent;

"(ii) for 2010, 1.25 percent;

"(iii) for 2011, 1.5 percent;

"(iv) for 2012, 1.75 percent; and

"(v) for 2013 and each subsequent year, 2.0 percent.".

(B) CONFORMING AMENDMENT.—Section 1848(d)(1)(A) (42 U.S.C. 1395w–4(d)(1)(A)) is amended by striking ''The conversion factor'' and inserting ''Subject to paragraph (6), the conversion factor''.

(d) PLANS.—

(1) SUBMISSION OF QUALITY DATA.—

(A) MEDICARE ADVANTAGE ORGANIZATIONS.—Section 1852(e) (42 U.S.C. 1395w–22(e)), as amended by section 722 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2347), is amended—

(i) in paragraph (1), by striking ''an MA private fee-for-service plan or''; and

(ii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) in clause (i), by adding at the end the following new sentence: ''Such data shall include data necessary for the operation of the plan value-based purchasing program under section 1860E–4.'';

1 (bb) by redesignating clause
2 (iv) as clause (vi); and
3 (cc) by inserting after clause
4 (iii) the following new clauses:
5 ''(iv) APPLICATION TO MA PRIVATE
6 FEE-FOR-SERVICE PLANS.—The Secretary
7 shall establish as appropriate by regulation
8 requirements for the collection, analysis,
9 and reporting of data that permits the
10 measurement of health outcomes and other
11 indices of quality for MA organizations
12 with respect to MA private fee-for-service
13 plans.''.
14 ''(v) AVAILABILITY TO THE PUBLIC.—
15 The Secretary shall establish procedures
16 for making data reported under this sub-
17 paragraph available to the public in a clear
18 and understandable form. Such procedures
19 shall ensure that an MA organization has
20 the opportunity to review the data that is
21 to be made public with respect to the plan
22 offered by the organization prior to such
23 data being made public.''; and
24 (II) in subparagraph (B)—

(aa) in clause (i), by striking "The" and inserting "Subject to clause (ii), the"; and

(bb) by striking clause (ii) and inserting the following new clause:

"(ii) CHANGES IN TYPES OF DATA.—Subject to clause (iii), the Secretary may only change the types of data that are required to be submitted under subparagraph (A) after submitting to Congress a report on the reasons for such changes that was prepared—

"(I) in the case of data necessary for the operation of the plan value-based purchasing program under section 1860E–4, after the requirements under subsections (c) and (d) of section 1860E–1 have been complied with; and

"(II) in the case of any other data, in consultation with MA organizations and private accrediting bodies.".

1 (B) ELIGIBLE ENTITIES WITH REASON-
2 ABLE COST CONTRACTS.—Section 1876(h) (42
3 U.S.C. 1395mm(h)) is amended by adding at
4 the end the following new paragraph:
5 ''(6)(A) With respect to plan years beginning on or
6 after January 1, 2006, an eligible entity with a reasonable
7 cost reimbursement contract under this subsection shall
8 submit to the Secretary such data that the Secretary de-
9 termines is appropriate for the measurement of health out-
10 comes and other indices of quality, including data nec-
11 essary for the operation of the plan value-based pur-
12 chasing program under section 1860E–4. Such data shall
13 be submitted in a form and manner, and at a time, speci-
14 fied by the Secretary for purposes of this subparagraph.
15 ''(B) The Secretary shall establish procedures for
16 making data reported under subparagraph (A) available
17 to the public in a clear and understandable form. Such
18 procedures shall ensure that an eligible entity has the op-
19 portunity to review the data that is to be made public with
20 respect to the contract prior to such data being made pub-
21 lic.''.
22 (C) EFFECTIVE DATE.—The amendments
23 made by this subsection shall apply to plan
24 years beginning on or after January 1, 2006.

(D) SENSE OF THE SENATE.—It is the sense of the Senate that, in establishing the timeframes for Medicare Advantage organizations and entities with a reasonable cost reimbursement contract under section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)) to report quality data under sections 1852(e)(3) and 1876(h)(6), respectively, of such Act, as added by this section, the Secretary should take into account other timeframes for reporting quality data that such organizations and entities are subject to under other Federal and State programs and in the commercial market.

(2) REDUCTION IN PAYMENTS TO ORGANIZATIONS IN ORDER TO FUND PROGRAM.—

(A) MEDICARE ADVANTAGE PAYMENTS.—

(i) IN GENERAL.—Section 1853(a)(1) (42 U.S.C. 1395w–23(a)(1)), as amended by section 222(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2200), is amended—

(I) in clauses (i) and (ii) of subparagraph (B), by inserting ''and, for 2009 and each subsequent year, ex-

cept in the case of an MSA plan or an MA plan for which there was no contract under section 1857 during either of the preceding 2 years, reduced by the applicable percent (as defined in subparagraph (I))'' after ''(G)''; and

(II) by adding at the end the following new subparagraph:

''(I) APPLICABLE PERCENT.—For purposes of clauses (i) and (ii) of subparagraph (B), the term 'applicable percent' means—

''(i) for 2009, 1.0 percent;

''(ii) for 2010, 1.25 percent;

''(iii) for 2011, 1.5 percent;

''(iv) for 2012, 1.75 percent; and

''(v) for 2013 and each subsequent year, 2.0 percent.''.

(iii) REDUCTIONS IN PAYMENTS DO NOT AFFECT THE REBATE FOR BIDS BELOW THE BENCHMARK.—The amendments made by subparagraph (A) shall not be construed to have any effect on—

(I) the determination of whether a Medicare Advantage plan has average per capita monthly savings de-

1 scribed in paragraph (3)(C) or (4)(C)
2 of section 1854(b) of the Social Secu-
3 rity Act (42 U.S.C. 1395w–24(b)); or
4 (II) the amount of such savings.
5 (A) REASONABLE COST CONTRACT PAY-
6 MENTS.—Section 1876(h) (42 U.S.C.
7 1395mm(h)), as amended by subsection (a)(2),
8 is amended by adding at the end the following
9 new paragraph:
10 ''(7) Notwithstanding the preceding provisions of this
11 subsection, the Secretary shall reduce each payment to an
12 eligible organization under this subsection with respect to
13 benefits provided on or after January 1, 2009, by an
14 amount equal to the applicable percent (as defined in sec-
15 tion 1853(a)(1)(I)) of the payment amount.''.
16 (3) REQUIREMENT FOR REPORTING ON USE OF
17 VALUE-BASED PAYMENTS.—
18 (A) MA PLANS.—Section 1854(a) (42
19 U.S.C. 1395w–24(a)), as amended by section
20 222(a) of the Medicare Prescription Drug, Im-
21 provement, and Modernization Act of 2003
22 (Public Law 108–173; 117 Stat. 2193), is
23 amended—

(i) in paragraph (1)(A)(i), by striking "or (6)(A)" and inserting "(6)(A), or (7)"; and

(ii) by adding at the end the following:

"(7) SUBMISSION OF INFORMATION OF HOW VALUE-BASED PAYMENTS WILL BE USED.—For an MA plan for a plan year beginning on or after January 1, 2011, the information described in this paragraph is a description of how the organization offering the plan will use any value-based payments that the organization received under section 1860E–4 with respect to the plan for the year preceding the year in which such information is submitted.".

(B) REASONABLE COST CONTRACTS.—Section 1876(h) (42 U.S.C. 1395mm(h)), as amended by subsection (c)(2), is amended by adding at the end the following new paragraph:

"(8) Not later than July 1 of each year (beginning in 2010), any eligible entity with a reasonable cost reimbursement contract under this subsection that received a value-based payment under section 1860E–4 with respect to the contract for the preceding year shall submit to the Secretary a report containing a description of how the organization will use such payments under the contract.".

1 (e) ESRD PROVIDERS AND FACILITIES.—

2 (1) VOLUNTARY SUBMISSION OF QUALITY
3 DATA.—Section 1881(b) (42 U.S.C. 1395rr(b)) is
4 amended by adding at the end the following new
5 paragraph:

6 ''(14) By not later than July 31, 2006, the Sec-
7 retary shall establish procedures under which pro-
8 viders of services and renal dialysis facilities that re-
9 ceive payments under paragraph (12) or (13) may
10 submit to the Secretary data that permits the meas-
11 urement of health outcomes and other indices of
12 quality.''.

13 (2) REDUCTION IN CASE-MIX ADJUSTED PRO-
14 SPECTIVE PAYMENT AMOUNT IN ORDER TO FUND
15 PROGRAM.—Section 1881(b)(12) (42 U.S.C.
16 1395rr(b)(12)) is amended—

17 (A) by redesignating subparagraph (G) as
18 subparagraph (H); and

19 (B) by inserting after subparagraph (F)
20 the following new subparagraph:

21 ''(G)(i) In the case of any payment made under
22 this paragraph for an item or service furnished on
23 or after January 1, 2007, such payment shall be re-
24 duced by the applicable percent. The preceding sen-
25 tence shall not apply to a payment for an item or

service furnished by a provider of services or a renal dialysis facility that is excluded from the program under section 1860E–5 by reason of subsection (a)(3) of such section at the time the item or service is furnished.

"(ii) For purposes of clause (i), the term 'applicable percent' means—

"(I) for 2007, 1.0 percent;

"(II) for 2008, 1.25 percent;

"(III) for 2009, 1.5 percent;

"(IV) for 2010, 1.75 percent; and

"(V) for 2011 and each subsequent year, 2.0 percent.".

(3) VALUE-BASED PURCHASING UNDER THE DEMONSTRATION OF BUNDLED CASE-MIX ADJUSTED PAYMENT SYSTEM FOR ESRD SERVICES.—Section 623(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395rr note) is amended by adding at the end the following new paragraph:

"(7) VALUE-BASED PURCHASING PROGRAM.—As part of the demonstration project under this subsection, the Secretary shall, beginning January 1, 2007, implement a value-based purchasing program for providers and facilities participating in the dem-

1 onstration project. The Secretary shall implement
2 such value-based purchasing program in a similar
3 manner as the ESRD provider and facility value-
4 based purchasing program is implemented under
5 section 1860E–5 of the Social Security Act, includ-
6 ing the funding of such program.''.
7 (f) HOME HEALTH AGENCIES.—
8 (1) UPDATE FOR HOME HEALTH AGENCIES
9 THAT SUBMIT QUALITY DATA.—Section
10 1895(b)(3)(B) (42 U.S.C.fff(b)(3)(B)) is amended—
11 (A) in clause (ii)(IV), by inserting ''subject
12 to clause (v),'' after ''subsequent year,''; and
13 (B) by adding at the end the following new
14 clause:
15 ''(v) ADJUSTMENT IF QUALITY DATA
16 NOT SUBMITTED.—
17 ''(I) ADJUSTMENT.—For pur-
18 poses of clause (ii)(IV), for 2007 and
19 each subsequent year, in the case of a
20 home health agency that does not sub-
21 mit data in accordance with subclause
22 (II) with respect to such a year, the
23 home health market basket percentage
24 increase applicable under such clause
25 for such year shall be reduced by 2

1 percentage points. Such reduction
2 shall apply only with respect to the
3 year involved, and the Secretary shall
4 not take into account such reduction
5 in computing the prospective payment
6 amount under this section for a subse-
7 quent year.

8 "(II) SUBMISSION OF QUALITY
9 DATA.—For 2007 and each subse-
10 quent year, each home health agency
11 shall submit to the Secretary such
12 data that the Secretary determines is
13 appropriate for the measurement of
14 health care quality, including data
15 necessary for the operation of the
16 home health agency value-based pur-
17 chasing program under section
18 1860E–6. Such data shall be sub-
19 mitted in a form and manner, and at
20 a time, specified by the Secretary for
21 purposes of this clause.

22 "(III) PUBLIC AVAILABILITY OF
23 DATA SUBMITTED.—The Secretary
24 shall establish procedures for making
25 data submitted under subclause (II)

available to the public in a clear and understandable form. Such procedures shall ensure that a home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public.''.

(2) REDUCTION IN STANDARD PROSPECTIVE PAYMENT AMOUNT FOR AGENCIES THAT SUBMIT QUALITY DATA IN ORDER TO FUND PROGRAM.—Section 1895(b)(3) (42 U.S.C. 1395fff(b)(3)) is amended by adding at the end the following new subparagraph:

''(D) REDUCTION IN ORDER TO FUND VALUE-BASED PURCHASING PROGRAM.—

''(i) IN GENERAL.—For 2008 and each subsequent year, in the case of a home health agency that complies with the submission requirements under section 1895(b)(3)(B)(v)(II) for the year, the standard prospective payment amount (or amounts) otherwise applicable under this paragraph for the year shall be reduced by the applicable percent.

"(ii) APPLICABLE PERCENT.—For purposes of clause (i), the term 'applicable percent' means—

"(I) for 2008, 1.0 percent;

"(II) for 2009, 1.25 percent;

"(III) for 2010, 1.5 percent;

"(IV) for 2011, 1.75 percent; and

"(V) for 2012 and each subsequent year, 2.0 percent.".

(g) SKILLED NURSING FACILITIES.—

(1) REQUIREMENT FOR SKILLED NURSING FACILITIES TO REPORT FUNCTIONAL CAPACITY OF MEDICARE RESIDENTS UPON ADMISSION AND DISCHARGE.—Section 1819(b) (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

"(9) REPORTING FUNCTIONAL CAPACITY AT ADMISSION AND DISCHARGE.—

"(A) IN GENERAL.—On and after October 1, 2006, a skilled nursing facility must submit a report to the Secretary on the functional capacity of each resident who is entitled to benefits under this part at the time of—

"(i) the admission of such resident; and

"(ii) the discharge of such resident.

"(B) TIMEFRAME.—A report required under subparagraph (A) shall be submitted within 10 days of the admission or discharge, as the case may be.".

(2) VOLUNTARY SUBMISSION OF SKILLED NURSING FACILITY QUALITY DATA.—Section 1888(e)(4)(E) (42 U.S.C. 1395yy(e)(4)(E)) is amended—

(A) in clause (ii)(IV), by inserting "subject to clause (iii)," after "subsequent fiscal year,"; and

(B) by adding at the end the following new clause:

"(iii) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

"(I) ADJUSTMENT.—For purposes of clause (ii)(IV), for fiscal year 2009 and each subsequent fiscal year, in the case of a skilled nursing facility that does not submit data in accordance with subclause (II) with respect to such a fiscal year, the skilled nurs-

ing facility market basket percentage change applicable under such clause for such fiscal year shall be reduced by 2 percentage points. Such reduction shall apply only with respect to the fiscal year involved, and the Secretary shall not take into account such reduction in computing the Federal per diem rate under this section for a subsequent fiscal year.

"(II) SUBMISSION OF QUALITY DATA.—For fiscal year 2008 and each subsequent fiscal year, each skilled nursing facility shall submit to the Secretary such data that the Secretary determines, after conducting a study in consultation with the entities described in subsections (c)(1), (c)(2), and (d) of section 1860E–1, is appropriate for the measurement of health outcomes and other indices of quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) PUBLIC AVAILABILITY OF DATA SUBMITTED.—The Secretary shall establish procedures for making data submitted under subclause (II) available to the public in a clear and understandable form. Such procedures shall ensure that a facility has the opportunity to review the data that is to be made public with respect to the facility prior to such data being made public.".

(h) CONFORMING REFERENCES TO PREVIOUS PART E.—Any reference in law (in effect before the date of the enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

**SEC. 6111. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY IN DETERMINING THE AMOUNT OF PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.**

(a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–23) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting "(or, beginning with 2007, 1/12 of the applicable amount determined under subsection (k)(1))" after "1853(c)(1)"; and

(ii) by inserting "(for years before 2007)" after "adjusted as appropriate";

(B) in subparagraph (B), by inserting "(for years before 2007)" after "adjusted as appropriate"; and

(2) by adding at the end the following new subsection:

"(k) DETERMINATION OF APPLICABLE AMOUNT FOR PURPOSES OF CALCULATING THE BENCHMARK AMOUNTS.—

"(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term 'applicable amount' means for an area—

"(A) for 2007—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount specified in subsection (c)(1)(C) for the area for 2006—

"(I) first adjusted by the rescaling factor for 2006 for the area (as made available by the Secretary in

the announcement of the rates on April 4, 2005, under subsection (b)(1), but excluding any national adjustment factors for coding intensity and risk adjustment budget neutrality that were included in such factor); and

"(II) then increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004;

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year; and

"(B) for a subsequent year—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount determined under this paragraph for the area for the previous year, increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004; and

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year.

"(2) ADJUSTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), in the case of 2007 through 2010, the applicable amount determined under paragraph (1) shall be increased by a factor equal to 1 plus the product of—

"(i) the percent determined under subparagraph (B) for the year; and

"(ii) the applicable percent for the year under subparagraph (C).

"(B) PERCENT DETERMINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), subject to clause (ii), the percent determined under this subparagraph for a year is a percent equal to a fraction—

"(I) the numerator of which is an amount equal to—

"(aa) the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to 1/12 of the annual MA capitation rate under subsection (c)(1) for the area and year; minus

"(bb) the Secretary's estimate of the total payments that would have been made under this part in the year if all the month-

ly payment amounts for all MA plans were equal to 1/12 of the MA area-specific non-drug monthly benchmark amount under subsection (j) for the area and year; and

''(II) the denominator of which is equal to the total amount estimated for the year under subclause (I)(bb).

''(ii) REQUIREMENTS.—In estimating the amounts under clause (i), the Secretary—

''(I) shall—

''(aa) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(3) that are available from the risk adjustment model announced for the year;

''(bb) adjust the risk scores to reflect changes in treatment and coding practices in the fee-for-service sector;

"(cc) adjust the risk scores for differences in coding patterns between Medicare Advantage plans and providers under part A and B to the extent that the Secretary has identified such differences;

"(dd) as necessary, adjust the risk scores for late data submitted by Medicare Advantage organizations;

"(ee) as necessary, adjust the risk scores for lagged cohorts; and

"(ff) as necessary, adjust the risk scores for changes in enrollment in Medicare Advantage plans during the year; and

"(II) may take into account the estimated health risk of enrollees in preferred provider organization plans (including MA regional plans) for the year.

In order to make the adjustment required under item (cc) and to ensure payment ac-

curacy, the Secretary shall conduct an analysis of the differences described in such item. The Secretary shall complete such analysis by a date necessary to ensure that the results of such analysis are incorporated into the payment rates for a year not later than 2008. In conducting such analysis, the Secretary shall use data submitted with respect to 2004 and subsequent years, as available.

"(C) APPLICABLE PERCENT.—For purposes of subparagraph (A)(ii), the term 'applicable percent' means—

"(i) for 2007, 55 percent;

"(ii) for 2008, 40 percent;

"(iii) for 2009, 25 percent; and

"(iv) for 2010, 5 percent.

"(D) TERMINATION OF ADJUSTMENT.—The Secretary shall not make any adjustment under subparagraph (A) in a year if the amount estimated under subparagraph (B)(i)(I)(bb) for the year is equal to or greater than the amount estimated under subparagraph (B)(i)(I)(aa) for the year.

"(3) NO ADDITIONAL ADJUSTMENTS.—

"(A) IN GENERAL.—Except for the adjustment provided for in paragraph (2), the Secretary may not make any adjustment to the applicable amount determined in paragraph (1) for any year.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to risk adjust the amount under subsection (c)(1)(D) pursuant to clause (i) of such subsection.".

(b) REFINEMENTS TO HEALTH STATUS ADJUSTMENT.—Section 1853(a)(1)(C) (42 U.S.C. 1395w–23) is amended by inserting after the first sentence the following new sentence: "In applying such adjustment for health status to such payment amounts, the Secretary shall ensure that such adjustment reflects changes in treatment and coding practices in the fee-for-service sector and reflects differences in coding patterns between Medicare Advantage plans and providers under part A and B to the extent that the Secretary has identified such differences.".

**SEC. 6112. ELIMINATION OF MEDICARE ADVANTAGE REGIONAL PLAN STABILIZATION FUND.**

(a) ELIMINATION.—

(1) IN GENERAL.—Subsection (e) of section 1858 (42 U.S.C. 1395w–27a) is repealed.

1 (2) CONFORMING AMENDMENT.—Section
2 1858(f)(1) (42 U.S.C. 1395w–27a(f)(1)) is amended
3 by striking "subject to subsection (e),".
4 (3) EFFECTIVE DATE.—The amendments made
5 by this subsection shall take effect as if included in
6 the enactment of section 221(c) of the Medicare Pre-
7 scription Drug, Improvement, and Modernization
8 Act of 2003 (Public Law 108–173; 117 Stat. 2181).
9 (b) TIMEFRAME FOR PART A AND B PAYMENTS.—
10 Notwithstanding sections 1816(c) and 1842(c)(2) of the
11 Social Security Act or any other provision of law—
12 (1) any payment from the Federal Hospital In-
13 surance Trust Fund under section 1817 of the So-
14 cial Security Act (42 U.S.C. 1395i) or from the Fed-
15 eral Supplementary Medical Insurance Trust Fund
16 under section 1841 of such Act (42 U.S.C. 1395t)
17 for claims submitted under part A or B of title
18 XVIII of such Act for items and services furnished
19 under such part A or B, respectively, that would
20 otherwise be payable during the period beginning on
21 September 22, 2006, and ending on September 30,
22 2006, shall be paid on the first business day of Oc-
23 tober 2006; and

(2) no interest or late penalty shall be paid to an entity or individual for any delay in a payment by reason of the application of paragraph (1).

**SEC. 6113. RURAL PACE PROVIDER GRANT PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) CMS.—The term ''CMS'' means the Centers for Medicare & Medicaid Services.

(2) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means a PACE program eligible individual (as defined in sections 1894(a)(5) and 1934(a)(5) of the Social Security Act (42 U.S.C. 1395eee(a)(5); 1396u–4(a)(5))).

(3) PACE PROGRAM.—The term ''PACE program'' has the meaning given that term in sections 1894(a)(2) and 1934(a)(2) of the Social Security Act (42 U.S.C. 1395eee(a)(2); 1396u–4(a)(2)).

(4) PACE PROVIDER.—The term ''PACE provider'' has the meaning given that term in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1395eee(a)(3); 1396u–4(a)(3)).

(5) RURAL AREA.—The term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(6) RURAL PACE PILOT SITE.—The term ''rural PACE pilot site'' means a PACE provider that has been approved to provide services in a geographic service area that is, in whole or in part, a rural area, and that has received a site development grant under this section.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) SITE DEVELOPMENT GRANTS AND TECHNICAL ASSISTANCE PROGRAM.—

(1) SITE DEVELOPMENT GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a geographic service area that is, in whole or in part, a rural area.

(B) AMOUNT PER AWARD.—A site development grant awarded under subparagraph (A) to any individual rural PACE pilot site shall not exceed $750,000.

(C) NUMBER OF AWARDS.—Not more than 15 rural PACE pilot sites shall be awarded a site development grant under subparagraph (A).

(D) USE OF FUNDS.—Funds made available under a site development grant awarded under subparagraph (A) may be used for the following expenses only to the extent such expenses are incurred in relation to establishing or delivering PACE program services in a rural area:

(i) Feasibility analysis and planning.

(ii) Interdisciplinary team development.

(iii) Development of a provider network, including contract development.

(iv) Development or adaptation of claims processing systems.

(v) Preparation of special education and outreach efforts required for the PACE program.

(vi) Development of expense reporting required for calculation of outlier payments or reconciliation processes.

(vii) Development of any special quality of care or patient satisfaction data collection efforts.

(viii) Establishment of a working capital fund to sustain fixed administrative,

1 facility, or other fixed costs until the pro-
2 vider reaches sufficient enrollment size.
3 (ix) Startup and development costs in-
4 curred prior to the approval of the rural
5 PACE pilot site's PACE provider applica-
6 tion by CMS.
7 (x) Any other efforts determined by
8 the rural PACE pilot site to be critical to
9 its successful startup, as approved by the
10 Secretary.
11 (E) APPROPRIATION.—
12 (i) IN GENERAL.—Out of funds in the
13 Treasury not otherwise appropriated, there
14 are appropriated to the Secretary to carry
15 out this subsection for the period of fiscal
16 years 2006 through 2007, $7,500,000.
17 (ii) AVAILABILITY.—Funds appro-
18 priated under clause (i) shall remain avail-
19 able for expenditure through fiscal year
20 2010.
21 (2) TECHNICAL ASSISTANCE PROGRAM.—The
22 Secretary shall establish a technical assistance pro-
23 gram to provide—

(A) outreach and education to State agencies and provider organizations interested in establishing PACE programs in rural areas; and

(B) technical assistance necessary to support rural PACE pilot sites.

(c) COST OUTLIER PROTECTION FOR RURAL PACE PILOT SITES.—

(1) ESTABLISHMENT OF FUND FOR REIMBURSEMENT OF OUTLIER COSTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall establish an outlier fund to reimburse rural PACE pilot sites for outlier costs (as defined in subparagraph (B)) incurred for eligible participants who reside in a rural area in accordance with the expense payment specified in subparagraph (C).

(B) OUTLIER COSTS DEFINED.—

(i) IN GENERAL.—In subparagraph (A), the term ''outlier costs'' means the inpatient and related physician and ancillary costs in excess of $50,000 incurred within a given 12-month period for an eligible participant who resides in a rural area.

(ii) INCLUSION IN ONLY 1 PERIOD.—Outlier costs may not be included in more than one 12-month period for purposes of calculating an outlier expense payment under subparagraph (C).

(C) OUTLIER EXPENSE PAYMENT.—

(i) PAYMENT FOR OUTLIER COSTS.—Subject to clause (ii), in the case of a rural PACE pilot site that has incurred outlier costs for an eligible participant, the rural PACE pilot site shall receive an outlier expense payment equal to 80 percent of such costs.

(ii) LIMITATIONS.—

(I) COSTS INCURRED PER ELIGIBLE PARTICIPANT.—The total amount of outlier expense payments made under clause (i) to a rural PACE pilot site for outlier costs incurred with respect to an eligible participant shall not exceed $100,000 for the 12-month period used to calculate the payment.

(II) COSTS INCURRED PER PROVIDER.—No rural PACE pilot site may receive more than $500,000 in

total outlier expense payments in a 12-month period.

(III) LIMITATION OF OUTLIER COST REIMBURSEMENT PERIOD.—A rural PACE pilot site shall only receive outlier expense payments under this subparagraph with respect to outlier costs incurred during the first 3 years of the site's operation.

(D) REQUIREMENT TO ACCESS RISK RESERVES PRIOR TO PAYMENT.—A rural PACE pilot site shall access and exhaust any risk reserves held or arranged for the provider (other than revenue or reserves maintained to satisfy the requirements of section 460.80(c) of title 42, Code of Federal Regulations) and any working capital established through a site development grant awarded under subsection (b)(1), prior to receiving any payment from the outlier fund.

(E) APPROPRIATION.—

(i) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry

out this subsection for the period of fiscal years 2006 through 2007, $10,000,000.

(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available for expenditure through fiscal year 2010.

(d) EVALUATION OF PACE PROVIDERS SERVING RURAL SERVICE AREAS.—Not later than 60 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing an evaluation of the experience of rural PACE pilot sites.

(e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SOCIAL SECURITY ACT.—Any amounts paid under the authority of this section to a PACE provider shall be in addition to payments made to the provider under section 1894 or 1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–4).

**SEC. 6114. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN INTERNATIONAL VOLUNTEERS.**

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1839(b)(42 U.S.C. 1395r(b)) is amended in the second sentence by inserting the following before the period at the end: ''or months for which the individual can dem-

1 onstrate that the individual was an individual de-
2 scribed in section 1837(k)(3)''.
3 (2) SPECIAL ENROLLMENT PERIOD.—
4 (A) IN GENERAL.—Section 1837 (42
5 U.S.C. 1395p) is amended by adding at the end
6 the following new subsection:
7 ''(k)(1) In the case of an individual who—
8 ''(A) at the time the individual first satisfies
9 paragraph (1) or (2) of section 1836, is described in
10 paragraph (3), and has elected not to enroll (or to
11 be deemed enrolled) under this section during the in-
12 dividual's initial enrollment period; or
13 ''(B) has terminated enrollment under this sec-
14 tion during a month in which the individual is de-
15 scribed in paragraph (3),
16 there shall be a special enrollment period described in
17 paragraph (2).
18 ''(2) The special enrollment period referred to in
19 paragraph (1) is the 6-month period beginning on the first
20 day of the month which includes the date that the indi-
21 vidual is no longer described in paragraph (3).
22 ''(3) For purposes of paragraph (1), an individual de-
23 scribed in this paragraph is an individual that is serving
24 as a volunteer outside of the United States through a pro-
25 gram—

"(A) that covers at least a 12-month period; and

"(B) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.".

(B) COVERAGE PERIOD.—Section 1838 (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to months beginning with January 2007 and the amendments made by subsection (a)(2) shall take effect on January 1, 2007.

**SEC. 6115. DELIVERY OF SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.**

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended—

(A) in subparagraph (A), by striking ", and" and inserting "and services described in subsections (qq) and (vv); and";

(B) in subparagraph (B), by striking "sections 329, 330, and 340" and inserting "section 330"; and

(C) in the flush matter at the end, by inserting "by the center or by a health care professional under contract with the center" after "outpatient of a Federally qualified health center".

(2) CONSOLIDATED BILLING.—The first sentence of section 1842(b)(6)(F) (42 U.S.C. 1395u(b)(6)(F)) is amended—

(A) by striking "and (G)" and inserting "(G)"; and

(B) by inserting before the period at the end the following: ", and (H) in the case of services described in section 1861(aa)(3) that are furnished by a health care professional under contract with a Federally qualified health center, payment shall be made to the center".

(b) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C.

1395x(aa)(4)(A)) are each amended by striking ''(other than subsection (h))''.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

# TITLE VII—COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

## Subtitle A—Education Provisions

### CHAPTER 1—EDUCATION

**SEC. 7101. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

(a) AMENDMENT.—Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is amended by adding at the end the following:

**''SEC. 401A. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

''(a) GRANTS.—

''(1) IN GENERAL.—From amounts appropriated under subsection (e) for a fiscal year and subject to subsection (b), the Secretary shall award grants to students (which shall be known as 'ProGAP awards') in the same manner as the Secretary awards grants to students under section 401, except that—

''(A) at the beginning of each award year, the Secretary shall establish a maximum and

minimum award level based on amounts made available under subsection (e);

"(B) the Secretary shall only award grants under this section to students eligible for a grant under section 401 for the award year; and

"(C) when determining eligibility for the awards, the Secretary shall consider only those students who are eligible for a grant under section 401, as of June 30 of the award year for which the determination is made.

"(2) STUDENTS WITH THE GREATEST NEED.—The Secretary shall ensure grants are awarded under this section to students with the greatest need as determined in accordance with section 471.

"(b) COST OF ATTENDANCE LIMITATION.—A grant awarded under this section for an award year shall be awarded in an amount that does not exceed—

"(1) the student's cost of attendance for the award year; less

"(2) an amount equal to the expected family contribution for that student for the award year.

"(c) SUPPLEMENT NOT SUPPLANT.—Grants awarded from funds made available under subsection (e) shall

be used to supplement, and not supplant, other Federal, State, or institutional grant funds.

"(d) USE OF EXCESS FUNDS.—

"(1) 15 PERCENT OR LESS.—If, at the end of a fiscal year, the funds available for making grant payments under this section exceed the amount necessary to make the grant payments required under this section to eligible students by 15 percent or less, then all of the excess funds shall remain available for making grant payments under this section during the next succeeding fiscal year.

"(2) MORE THAN 15 PERCENT.—If, at the end of a fiscal year, the funds available for making grant payments under this section exceed the amount necessary to make the grant payments required under this section to eligible students by more than 15 percent, then all of such funds shall remain available for making such grant payments but grant payments may be made under this paragraph only with respect to awards for that fiscal year.".

"(e) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section and section 401B—

"(1) $1,897,000,000 for fiscal year 2006;

"(2) $1,901,000,000 for fiscal year 2007;

"(3) $1,899,000,000 for fiscal year 2008;

"(4) $1,898,000,000 for fiscal year 2009; and

"(5) $1,897,000,000 for fiscal year 2010.

"(f) SUNSET PROVISION.—This section shall be effective with respect to amounts appropriated for fiscal year 2006 and each of the 4 succeeding fiscal years.".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the amounts appropriated to carry out sections 401A and 401B of the Higher Education Act of 1965 are the result of the savings generated by the amendments made by this chapter.

**SEC. 7102. NATIONAL SMART GRANTS.**

Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is further amended by adding after section 401A (as added by section 7101):

**"SEC. 401B. NATIONAL SMART GRANTS.**

"(a) FINDINGS.—Congress makes the following findings:

"(1) If the United States is to remain a world leader in the global economy, its college students must have the training they need to compete for the best jobs of the 21st century.

(2) The United States intelligence community faces major shortages in foreign languages critical to national security, and will also require major incentives to fill projected workforce needs.

"(3) Increasingly, the best jobs of the 21st century will require baccalaureate degrees in the sciences, mathematics, technology, engineering, and foreign languages critical to national security, or be generated by people who have such degrees.

"(4) Congress should establish a National Science and Mathematics Access to Retain Talent (SMART) grant program to meet the goals described in paragraphs (1) through (3).

"(b) PURPOSE.—The purpose of this section is to increase the number of postsecondary students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in physical, life, or computer sciences, mathematics, technology, engineering, and foreign languages critical to national security.

"(c) GRANTS AUTHORIZED.—From amounts appropriated under section 401A(c) for a fiscal year, the Secretary shall award grants to eligible students to assist the eligible students in paying their college education expenses.

"(d) DESIGNATION.—A grant under this section shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(e) DEFINITION OF ELIGIBLE STUDENT.—In this section the term 'eligible student' means a student who, for the academic year for which the determination is made—

"(1) is eligible for a Federal Pell Grant; and

"(2) is in the student's 3rd or 4th year at an institution of higher education majoring in—

"(A) mathematics, science, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(B) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States.

"(f) GRANT AMOUNT.—The Secretary shall award a grant under this section in an amount that does not exceed $1,500 for an academic year.

"(g) FUNDING RULE.—The Secretary shall use not more than $450,000,000 of the funds appropriated under section 401A(c) for each of the fiscal years 2006 through 2010 to carry out this section.

"(h) UNOBLIGATED FUNDS AVAILABLE FOR FEDERAL GRANT ASSISTANCE.—The Secretary shall make any funds made available under subsection (g) for a fiscal year that remain unobligated at the end of the fiscal year available to carry out section 401A.

"(i) MATCHING ASSISTANCE.—An institution of higher education may, from funds provided from private sources, provide additional assistance to a student receiving a grant under this section, except that the total assistance provided under this title to a student shall not exceed the student's cost of attendance.".

**SEC. 7103. LOAN LIMITS.**

(a) FEDERAL INSURANCE LIMITS.—Section 425(a)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(b) GUARANTEE LIMITS.—Section 428(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking ''$3,500'' and inserting ''$4,500''.

(c) FEDERAL PLUS LOANS.—Section 428B of the Higher Education Act of 1965 (20 U.S.C. 1078–2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking ''Parents'' and inserting ''A graduate or professional student or the parents'';

(B) in subparagraph (A), by striking ''the parents'' and inserting ''the graduate or professional student or the parents''; and

(C) in subparagraph (B), by striking ''the parents'' and inserting ''the graduate or professional student or the parents'';

(2) in subsection (b), by striking ''any parent'' and inserting ''any graduate or professional student or any parent'';

(3) in subsection (c)(2), by striking ''parent'' and inserting ''graduate or professional student or parent''; and

(4) in subsection (d)(1), by striking ''the parent'' and inserting ''the graduate or professional student or the parent''.

(d) UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)(2)) is amended—

(1) in subparagraph (C), by striking ''$10,000'' and inserting ''$12,000''; and

(2) in subparagraph (D)—

(A) in clause (i), by striking ''$5,000'' and inserting ''$7,000''; and

(B) in clause (ii), by striking ''$5,000'' and inserting ''$7,000''.

**SEC. 7104. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT.**

(a) PLUS LOANS.—Section 427A(l)(2) of the Higher Education Act of 1965 (20 U.S.C. 1077a(l)(2)) is amended by striking ''7.9 percent'' and inserting ''8.5 percent''.

(b) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES.—

(1) AMENDMENTS.—Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) is amended—

(A) in clause (iv), by striking '', subject to clause (vi) of this subparagraph'';

(B) in clause (v), by striking "July 1, 2006" each place it appears and inserting "April 1, 2006"; and

(C) by striking clauses (vi) and (vii) and inserting the following:

"(vi) RECAPTURE OF EXCESS INTEREST.—

"(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 427A and for which the first disbursement of principal is made on or after April 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan

under clauses (ii), (iii), and (iv) in determining such sum.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C 1087–1) before April 1, 2006.

**SEC. 7105. REDUCTION OF LENDER INSURANCE REIMBURSEMENT RATES.**

(a) AMENDMENT.—Subparagraph (G) of section 428(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)) is amended to read as follows:

''(G) insures 97 percent of the unpaid principal of loans insured under the program;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) for which the first disbursement is made on or after January 1, 2006.

**SEC. 7106. GUARANTY AGENCY ORIGINATION FEE.**

(a) AMENDMENT.—Section 428(b)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H)) is amended to read as follows:

"(H) provides for the collection, and the deposit in the Federal Fund established under section 422A(a), of a guaranty agency origination fee of 1.0 percent of each disbursement of the proceeds of the loan, which fee may be provided from funds in the guaranty agency's operating fund under section 422B or from other non-Federal funds;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to any loan disbursed under part B of title IV of the Higher Education Act of 1965 on or after April 1, 2006.

**SEC. 7107. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.**

(a) FEDERAL FAMILY EDUCATION LOANS.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(b) DIRECT LOANS.—Section 455(f)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(c) PERKINS LOANS.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

(d) DEFINITIONS.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as

such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

"(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who

has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001.

**SEC. 7108. RECOVERY THROUGH CONSOLIDATION.**

Section 428(c) of the Higher Education Act of 1965 (20 U.S.C 1078(c)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting ''(i)'' after ''including''; and

(B) by inserting before the semicolon at the end the following: ''and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part'';

(2) in paragraph (2)(D), by striking ''paragraph (6)'' and inserting ''paragraph (6)(A)''; and

(3) in paragraph (6)—

(A) by inserting ''(A)'' before ''For the purposes of paragraph (2)(D),'';

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(C) by adding at the end the following new subparagraphs:

''(B) GUARANTY AGENCY OBLIGATIONS.—A guaranty agency shall—

''(i) on or after October 1, 2006—

''(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off

through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

"(C) EXCESS CONSOLIDATION PROCEEDS.—For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

**SEC. 7109. SINGLE HOLDER RULE.**

Subparagraph (A) of section 428C(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is

amended by striking ''and (i)'' and all that follows through ''so selected for consolidation)''.

**SEC. 7110. DEFAULT REDUCTION PROGRAM.**

Section 428F(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-6(a)(1)) is amended—

(1) in subparagraph (A), by striking ''consecutive payments for 12 months'' and inserting ''9 payments made within 20 days of the due date during 10 consecutive months'';

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).''.

**SEC. 7111. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.**

Section 428G of the Higher Education Act of 1965 (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: ''Notwithstanding section 422(d) of

the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Amendments of 2005.''; and

(2) in subsection (b)(1), by adding at the end the following: ''Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Amendments of 2005.''.

**SEC. 7112. SPECIAL INSURANCE AND REINSURANCE RULES.**

(a) REPEAL.—Section 428I of the Higher Education Act of 1965 (20 U.S.C. 1078–9) is repealed.

(b) CONFORMING AMENDMENTS.—Part A of title IV of the Higher Education Act of 1965 (20 U.S.C.1070 et seq.) is amended—

(1) in section 428(c)(1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) in section 438(b)(5), by striking the matter following subparagraph (B).

**SEC. 7113. SCHOOL AS LENDER MORATORIUM.**

Section 435(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(2)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon; and

(2) by inserting before the matter following subparagraph (F) (as amended by section 7390) the following:

''(G) shall have met the requirements of subparagraphs (A) through (F), and made loans under this part, on or before August 31, 2005;

''(H) shall hold each loan the eligible institution makes under this part to a student enrolled at the eligible institution until the student enters into a grace period described in section 427(a)(2)(B) or 428(b)(7);

''(I) shall use the proceeds from the sale of a loan made under this part, for need based grant aid programs, except that such proceeds—

''(i) shall not be used to provide a grant to a student for an academic year in an amount that is more than the student's cost of attendance for the academic year; and

"(ii) shall supplement and not supplant other Federal, State, and institutional grant aid; and

"(J) shall not be a foundation or alumni organization;".

**SEC. 7114. PERMANENT REDUCTION OF SPECIAL ALLOWANCE PAYMENTS FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.**

(a) TECHNICAL CLARIFICATION.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Public Law 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)". The amendment made by the preceding sentence shall be effective as if enacted on October 30, 2004.

(b) AMENDMENT.—Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006,"; and

(2) in clause (v)(II)—

(A) in item (aa), by striking "and before January 1, 2006,";

(B) in item (bb), by striking "and before January 1, 2006,"; and

(C) in item (cc), by striking ''and before January 1, 2006,''.

**SEC. 7115. SPECIAL ALLOWANCES.**

(a) ORIGINATION FEES.—Paragraph (2) of section 438(c) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(c)) is amended—

(1) by striking the designation and heading of such paragraph and inserting the following:

''(2) AMOUNT OF ORIGINATION FEES.—

''(A) IN GENERAL.—''; and

(2) by adding at the end the following new subparagraph:

''(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 428C and 439(o)) by substituting '2.50 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007.''.

(b) LOAN FEES FROM LENDERS.—

(1) AMENDMENT.—Paragraph (2) of section 438(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(d)) is amended to read as follows:

''(2) AMOUNT OF LOAN FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any loan made under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee that shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

"(B) CONSOLIDATION LOANS.—With respect to any loan made under section 428C on or after April 1, 2006, the amount of the loan fee that shall be deducted under paragraph (1) shall be equal to 1.0 percent of the principal amount of the loan.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) for which the first disbursement is made on or after April 1, 2006.

**SEC. 7116. ORIGINATION FEE.**

Section 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087e(c)) is amended—

(1) by striking "shall" and inserting "is authorized to"; and

(2) by striking ''4.0 percent of the principal amount of loan'' and inserting ''not less than 1 percent and not more than 3 percent of the principal amount of the loan, except that the Secretary shall charge the borrower of a Federal Direct PLUS Loan an origination fee of 4.0 percent of the principal amount of the loan. Beginning on July 1, 2007, the preceding sentence shall be applied by substituting '2.5 percent' for '3 percent' ''.

**SEC. 7117. INCOME CONTINGENT REPAYMENT FOR PUBLIC SECTOR EMPLOYEES.**

Section 455(e) of the Higher Education Act of 1965 (20 U.S.C. 1087e(e)) is amended by adding at the end the following:

''(7) REPAYMENT PLAN FOR PUBLIC SECTOR EMPLOYEES.—

''(A) IN GENERAL.—The Secretary shall forgive the balance due on any loan made under this part or section 428C(b)(5) for a borrower—

''(i) who has made 120 payments on such loan pursuant to income contingent repayment; and

''(ii) who is employed, and was employed for the 10-year period in which the

borrower made the 120 payments described in clause (i), in a public sector job.

"(B) PUBLIC SECTOR JOB.—In this paragraph, the term 'public sector job' means a full-time job in emergency management, government, public safety, law enforcement, public health, education (including early childhood education), or public interest legal services (including prosecution or public defense).

"(8) RETURN TO STANDARD REPAYMENT.—A borrower who is repaying a loan made under this part pursuant to income contingent repayment may choose, at any time, to terminate repayment pursuant to income contingent repayment and repay such loan under the standard repayment plan.".

**SEC. 7118. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.**

(a) AMENDMENTS.—Section 475 of the Higher Education Act of 1965 (20 U.S.C. 1087oo) is amended—

(1) in subsection (g)(2)(D), by striking "$2,200" and inserting "$3,000"; and

(2) in subsection (h), by striking "35" and inserting "20".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to determinations

of need for periods of enrollment beginning on or after July 1, 2007.

**SEC. 7119. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.**

(a) AMENDMENTS.—Section 476 of the Higher Education Act of 1965 (20 U.S.C.1087pp) is amended—

(1) in subsection (b)(1)(A)(iv)—

(A) in subclause (I), by striking ''$5,000'' and inserting ''$6,050'';

(B) in subclause (II), by striking ''$5,000'' and inserting ''$6,050''; and

(C) in subclause (III), by striking ''$8,000'' and inserting ''$9,700''; and

(2) in subsection (c)(4), by striking ''35'' and inserting ''20''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

**SEC. 7120. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.**

(a) AMENDMENT.—Section 477(c)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(c)(4)) is amended by striking ''12'' and inserting ''7''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

**SEC. 7121. REGULATIONS; UPDATED TABLES.**

Section 478(b) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(b)) is amended—

(1) in paragraph (1), by adding at the end the following: ''For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 477(b)(4) by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent.''; and

(2) in paragraph (2), by striking ''2000–2001'' and inserting ''2007–2008''.

**SEC. 7122. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.**

(a) AMENDMENTS.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) the student's parents—

''(I) file, or are eligible to file, a form described in paragraph (3);

''(II) certify that the parents are not required to file a Federal income tax return; or

''(III) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

''(i) the student (and the student's spouse, if any)—

''(I) files, or is eligible to 1 file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(III) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case maybe, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that the parents are not required to file a Federal income tax return; or

"(iii) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not re-

quired to file a Federal income tax return; or

"(iii) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000."; and

(3) by adding at the end the following:

"(d) DEFINITIONS.—In this section:

"(1) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—In this section, the term "means-tested Federal benefit program" means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

"(A) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(B) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

"(D) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(E) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(F) other programs identified by the Secretary.".

(b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

**SEC. 7123. LOAN FORGIVENESS FOR TEACHERS.**

Section 3(b)(3) of the Taxpayer-Teacher Protection Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ‘‘, and before October 1, 2005’’.

**SEC. 7124. EFFECTIVE DATE.**

Except as otherwise provided in this chapter or the amendments made by this chapter, the amendments made by this chapter shall take effect on July 1, 2006.

## CHAPTER 2—HURRICANE KATRINA HIGHER EDUCATION RECOVERY

**SEC. 7151. SHORT TITLE.**

This chapter may be cited as the ‘‘Hurricane Katrina Higher Education Recovery Act’’.

**SEC. 7152. DEFINITIONS.**

In this chapter:

1 (1) AFFECTED BORROWER.—The term ''af-
2 fected borrower'' means an individual who—
3 (A) was in repayment, but not in
4 deferment, on a loan made, insured, or guaran-
5 teed under part B, D, or E of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1071 et seq.,
7 1087a et seq., 1087aa et seq.) on August 22,
8 2005, or enters or entered repayment after Au-
9 gust 22, 2005 and before June 30, 2006; and
10 (B)(i) lives or lived, as of August 22,
11 2005, in a county or parish of Alabama, Lou-
12 isiana, or Mississippi—
13 (I) in which a major disaster has been
14 declared in accordance with section 401 of
15 the Robert T. Stafford Disaster Relief and
16 Emergency Assistance Act (42 U.S.C.
17 5170) as a result of Hurricane Katrina;
18 and
19 (II) which the President has deter-
20 mined warrants individual assistance from
21 the Federal Government; or
22 (ii) worked, as of August 22, 2005, in a
23 county or parish described in clause (i).
24 (2) AFFECTED INSTITUTION.—

(A) IN GENERAL.—The term ''affected institution'' means an institution of higher education, as defined in section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002), that—

(i) is located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina; and

(ii) is impacted by Hurricane Katrina.

(B) LENGTH OF TIME.—In determining eligibility for assistance under this chapter, the Secretary, using consistent, objective criteria, shall determine the time period for which an institution of higher education is an affected institution.

(C) SPECIAL RULE.—An organizational unit of an affected institution that is not impacted by Hurricane Katrina shall not be considered as part of such affected institution for purposes of receiving assistance under this chapter.

(3) AFFECTED STUDENT.—The term ''affected student'' means a student who was enrolled on August 29, 2005 in an affected institution.

(4) DISTANCE EDUCATION.—

(A) IN GENERAL.—The term ''distance education'' means a course or program that uses 1 or more of the technologies described in subparagraph (B) to—

(i) deliver instruction to students who are separated from the instructor; and

(ii) support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously.

(B) INCLUSIONS.—For the purposes of subparagraph (A), the technologies used may include—

(i) the Internet;

(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) audio conferencing; or

(iv) video cassette, DVDs, and CD-ROMs, provided that they are used in a course in conjunction with the technologies listed in clauses (i) through (iii).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

**SEC. 7153. WAIVER AUTHORITY AND MODIFICATIONS TO CERTAIN PROVISIONS OF THE HIGHER EDUCATION ACT OF 1965.**

(a) WAIVER OF INSTITUTIONAL REPAYMENT.—Notwithstanding any other provision of law, including requirements related to cash management, an affected institution shall not be required to return any funds received by the affected institution for, or on behalf of, its students under subparts 1 and 3 of part A and parts B, C, D, and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070, 1070b et seq., 1071 et seq., 1087a et seq., 1087aa et seq., 42 U.S.C. 2751 et seq.) during the 2005–2006 academic year.

(b) WAIVER OF STUDENT RETURN OF ASSISTANCE.—Notwithstanding any other provision of law, an affected student who, as of the date of enactment of this Act, received assistance under subpart 1 or 3 of part A or parts B, C, D, or E of title IV of the Higher Education Act of 1965 for attendance at an affected institution of

higher education during the 2005–2006 academic year, shall not be required to return such assistance.

(c) AFFECTED STUDENTS WHO DO NOT ENROLL IN ANOTHER INSTITUTION AND BORROWERS IN GRACE PERIODS OR DEFERMENT.—With respect to a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.)—

(1) an affected student who does not enroll in another institution of higher education shall be retained in in-school status during the period beginning on August 22, 2005, and ending on June 30, 2006; and

(2) a borrower in a grace period or in deferment as of August 22, 2005 who satisfies the requirement described in clause (i) or clause (ii) of section 201(1)(B) shall be retained in such status, without documentation or action by the borrower, until June 30, 2006.

(d) DISCHARGE OR CANCELLATION OF LOANS.—The Secretary shall—

(1) discharge all loan amounts under parts B and D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.) disbursed to, or on behalf of, an affected student for

attendance at an affected institution of higher education during the 2005–2006 academic year;

(2) reimburse lenders for the purpose of discharging any loan amounts disbursed to, or on behalf of, a student under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.), for attendance at an affected institution of higher education during the 2005–2006 academic year; and

(3) cancel any loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) disbursed to a student for attendance at an affected institution of higher education during the 2005–2006 academic year.

(e) AGGREGATE AND ANNUAL LIMITS.—In the case of an affected student, any grant or loan assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) that such student received, or was to have received, for a program of study at an affected institution of higher education during the 2005–2006 academic year shall not count against such student's annual or aggregate grant or loan limits for receipt of aid under such title.

(f) FORBEARANCE.—Notwithstanding the provisions of part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,

1087aa et seq.), a lender, the Secretary, or an institution of higher education is authorized to provide not more than 1 year of forbearance to an affected borrower without documentation.

(g) PROFESSIONAL JUDGMENT.—A financial aid administrator shall be considered to be making an adjustment in accordance with section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) if the financial aid administrator makes the adjustment with respect to the calculation of the expected student or parent contribution (or both) for an affected student, or for a student or a parent who resides or resided on August 22, 2005, or was employed on August 22, 2005, in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina. The financial aid administrator shall adequately document the need for the adjustment.

(h) MODIFICATION OF PART A OF TITLE II GRANTS AUTHORIZED.—The Secretary is authorized to approve modifications to the requirements for Teacher Quality Enhancement Grants for States and Partnerships under part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), at the request of the grantee—

(1) to assist States and local educational agencies to recruit and retain highly qualified teachers in a school district located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina; and

(2) to assist institutions of higher education, as defined in section 101 of such Act (20 U.S.C. 1001), located in such area to recruit and retain faculty necessary to prepare teachers and provide professional development.

(i) WAIVER AUTHORITY TO MODIFY AUTHORIZED USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III, AND OTHER GRANTS.—The Secretary is authorized to modify the required and allowable uses of funds under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq., 1070a–21 et seq.), under part A or B of title III (20 U.S.C. 1057 et seq., 1060 et seq.), and under any other competitive grant program, at the request of an affected institution or other grantee, with respect to affected institutions and other grantees located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act due to the effects of Hurricane Katrina.

(j) AUTHORITY TO EXTEND OR WAIVE REPORTING REQUIREMENTS UNDER SECTION 131(a).—The Secretary is authorized to extend reporting deadlines or waive reporting requirements under section 131(a) of the Higher Education Act of 1965 (20 U.S.C. 1015(a)) for an affected institution.

(k) DISTANCE EDUCATION.—The Secretary may waive the restrictions of subparagraphs (A) and (B) of section 102(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(3)(A) and (B)) with respect to an institution of higher education, other than a foreign institution, that offers education or training programs through distance education and is otherwise eligible to participate in programs authorized under title IV of such Act (20 U.S.C. 1070 et seq.), if such institution exceeds such restrictions described in such subparagraphs due to the enrollment of affected students.

**SEC. 7154. GENERAL WAIVER AUTHORITY AND REQUIRED CONSULTATION.**

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may waive or modify any statutory provision of the Higher Education Act

of 1965 (20 U.S.C. 1001 et seq.) or any regulation implementing such Act as the Secretary determines necessary in connection with a major disaster that has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina.

(2) ACTIONS AUTHORIZED.—In carrying out paragraph (1), the Secretary is authorized to waive or modify any provision described in paragraph (1) as the Secretary determines necessary to ensure that—

(A) administrative requirements placed on affected students, affected borrowers, institutions of higher education, lenders, guaranty agencies and grantees are minimized to the extent possible without impairing the integrity of the higher education programs under the Higher Education Act of 1965, to ease the burden on such participants; or

(B) institutions of higher education, lenders, guaranty agencies, and other entities participating in the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.),

that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina, may be granted temporary relief from requirements that are rendered infeasible or unreasonable due to the effects of Hurricane Katrina, including due diligence requirements and reporting deadlines.

(b) CONSTRUCTION.—Nothing in this section shall be construed to allow the Secretary to waive or modify any applicable statutory or regulatory requirements prohibiting discrimination in a program or activity, or in employment or contracting, under existing law (in existence on the date of the Secretary's action).

(c) CONSULTATION.—Prior to granting any waiver or modification under this section, the Secretary shall consult with the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives with respect to waivers or modifications under this section.

**SEC. 7155. NOTICE OF WAIVERS, MODIFICATIONS, OR EXTENSIONS.**

Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall make publicly available the waivers, modifications, or extensions granted under section 7153 or 7154.

**SEC. 7156. REGULATORY REQUIREMENTS INAPPLICABLE.**

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the General Education Provisions Act (20 U.S.C. 1232), and section 553 of title 5, United States Code, shall not apply to this chapter.

**SEC. 7157. DEPARTMENT OF EDUCATION INSPECTOR GENERAL AUDIT AND REPORT.**

(a) IN GENERAL.—The Inspector General of the Department of Education (referred to in this section as the ''Inspector General'') shall conduct an audit and investigation of each program carried out by the Department of Education that includes response and recovery activities related to Hurricane Katrina.

(b) WEEKLY REPORT.—Not less frequently than once a week, the Inspector General shall provide a report to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and

the Committee on Appropriations of the House of Representatives listing the audits and investigations initiated pursuant to subsection (a).

(c) STATUS REPORT.—Not later than 6 months after the date of enactment of this Act, and biannually thereafter until the audits and investigations described in subsection (a) are complete, the Inspector General shall report to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives on the full status of the activities of the Inspector General under this section.

(d) COOPERATIVE VENTURES.—In carrying out this section, the Inspector General is encouraged to enter into cooperative ventures with Inspectors General of other Federal agencies.

**SEC. 7158. SUNSET PROVISION.**

Except as otherwise provided in this chapter, the provisions of this chapter shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 2006.

# Subtitle B—Pension Benefit Guaranty Corporation Premiums

**SEC. 7201. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) FLAT-RATE PREMIUMS.—

(1) SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended to read as follows:

"(i) in the case of a single-employer plan, an amount equal to—

"(I) for plan years beginning after December 31, 1990, and before January 1, 2006, $19, or

"(II) except as provided in subparagraph (F), for plan years beginning after December 31, 2005, $46.75,

plus the additional premium (if any) determined under subparagraph (E) for each individual who is a participant in such plan during the plan year;".

(2) MULTIEMPLOYER PLANS.—Section 4006(a)(3)(A) of such Act (29 U.S.C. 1306(a)(3)(A)) is amended—

(A) in clause (iii), by—

(i) inserting "and before January 1, 2006," after "Act of 1980,"; and

(ii) striking the period at the end and inserting ", or"; and

(B) by adding at the end the following:

"(iv) in the case of a multiemployer plan an amount equal to the following for each individual who is a participant in such plan during the applicable plan year:

"(I) $8.00 for plan years beginning in 2006.

"(II) For plan years after December 31, 2006, the amount determined under subparagraph (G).

(3) INDEXING OF FLAT-RATE PREMIUMS.—

(A) SINGLE-EMPLOYER PREMIUMS.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this Act, is amended by adding at the end the following:

"(F) INDEXING OF SINGLE-EMPLOYER FLAT-RATE PREMIUMS.—

"(i) IN GENERAL.—In the case of any plan year beginning after 2006, the adjusted amount under clause (ii) shall be substituted for the dollar amount under

clause (i)(II) of subparagraph (A), if such adjusted amount is greater than such dollar amount.

"(ii) ADJUSTED AMOUNT.—The adjusted amount for the dollar amount in clause (i)(II) of subparagraph (A) for any plan year is the product derived by multiplying such dollar amount by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which the plan year begins, to

"(II) the national average wage index (as so defined) for 2004.

If the amount determined under this clause is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(B) MULTIEMPLOYER PREMIUMS—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this Act, is amended by adding at the end the following:

"(G) INDEXING OF MULTIEMPLOYER FLAT-RATE PREMIUMS.—The amount determined under this subparagraph is the product derived by multiplying $8.00 by the ratio of—

"(i) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which the plan year begins, to

"(ii) the national average wage index (as defined in subparagraph (F)) for 2004.

If the amount determined under this clause is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(b) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month pe-

riod, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—Subparagraph (A) shall not apply to a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, (or under any similar law of a State or political subdivision of a State) until the plan sponsor emerges from bankruptcy.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In the case of a plan described under subparagraph (B), the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the date the plan sponsor emerges from bankruptcy.

"(D) COORDINATION WITH SECTION 4007.—For purposes of section 4007—

"(i) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period,

"(ii) the fifth sentence of section 4007(a) shall not apply, and

"(iii) the designated payor under section 4007(e)(1)(A) shall be the contributing sponsor immediately before the termination date.".

(c) CONFORMING AMENDMENT.—Section 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is

amended by striking ''subparagraph (A)(iii)'' and inserting ''clause (iii) or (iv) of subparagraph (A)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY.—The amendment made by subsection (b) shall not apply to a termination of a single-employer plan that is terminated during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), if the proceeding is pursuant to a bankruptcy filing occurring before October 18, 2005.

(3) SPECIAL RULE IF SUBSEQUENT SAVINGS ENACTED.—The amendments made by this section shall not take effect if, after the date of enactment of this Act and before January 1, 2006, a Federal law is enacted which—

(A) provides for decreases in Federal outlays which in the aggregate are not less than the decreases in Federal outlays by reason of the amendments made by this section; and

(B) specifically provides that such decreases are to be in lieu of the decreases in Federal outlays by reason of the amendments made by this section.

# Subtitle C—Higher Education Reauthorization

## CHAPTER 1—SHORT TITLE; REFERENCES; GENERAL EFFECTIVE DATE

**SEC. 7301. SHORT TITLE.**

(a) SHORT TITLE.—This subtitle may be cited as the ''Higher Education Amendments of 2005''.

**SEC. 7302. REFERENCES.**

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

**SEC. 7303. GENERAL EFFECTIVE DATE.**

Except as otherwise provided in this subtitle or the amendments made by this subtitle, the amendments made by this subtitle shall take effect on July 1, 2006.

## CHAPTER 2—GENERAL PROVISIONS

**SEC. 7311. ADDITIONAL DEFINITIONS.**

(a) AMENDMENT.—Section 103 (20 U.S.C. 1003) is amended—

(1) by redesignating paragraphs (1) through (16) as paragraphs (2) through (17), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) AUTHORIZING COMMITTEES.—The term 'authorizing committees' means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 131(a)(3)(B) (20 U.S.C. 1015(a)(3)(B)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(2) in section 141(d)(4)(B) (20 U.S.C. 1018(d)(4)(B)), by striking "Committee on Education and the Workforce of the House of Rep-

resentatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''authorizing committees'';

(3) in section 207(c)(1) (20 U.S.C. 1027(c)(1)), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees'';

(4) in section 401(f)(3) (20 U.S.C. 1070a(f)(3)), by striking ''to the Committee on Appropriations'' and all that follows through ''House of Representatives'' and inserting ''to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees'';

(5) in section 428 (20 U.S.C. 1078)—

(A) in subsection (c)(9)(K), by striking ''House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources'' and inserting ''authorizing committees'';

(B) in the matter following paragraph (2) of subsection (g), by striking ''Committee on Labor and Human Resources of the Senate and

the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(C) in subsection (n)(4), ''Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''authorizing committees'';

(6) in section 428A (20 U.S.C. 1078–1)—

(A) in the matter preceding subparagraph (A) of subsection (a)(4), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(B) in subsection (c)—

(i) in the matter preceding subparagraph (A) of paragraph (2), by striking ''Chairperson'' and all that follows through ''House of Representatives'' and inserting ''Chairpersons and Ranking Members of the authorizing committees'';

(ii) in paragraph (3), by striking ''Chairperson'' and all that follows through ''House of Representatives'' and inserting

"Chairpersons and Ranking Members of the authorizing committees"; and

(iii) in paragraph (5), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "Chairpersons and Ranking Members of the authorizing committees";

(7) in section 432 (20 U.S.C. 1082)—

(A) in subsection (f)(1)(C), by striking "the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate" and inserting "either of the authorizing committees"; and

(B) in the matter following subparagraph (D) of subsection (n)(3), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(8) in section 437(c)(1) (20 U.S.C. 1087(c)(1)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(9) in section 439 (20 U.S.C. 1087–2)—

(A) in subsection (d)(1)(E)(iii), by striking ''advise the Chairman'' and all that follows through ''House of Representatives'' and inserting ''advise the Chairpersons and Ranking Members of the authorizing committees'';

(B) in subsection (r)—

(i) in paragraph (3), by striking ''inform the Chairman'' and all that follows through ''House of Representatives,'' and inserting ''inform the Chairpersons and Ranking Members of the authorizing committees'';

(ii) in paragraph (5)(B), by striking ''plan, to the Chairman'' and all that follows through ''Education and Labor'' and inserting ''plan, to the Chairpersons and Ranking Members of the authorizing committees'';

(iii) in paragraph (6)(B)—

(I) by striking ''plan, to the Chairman'' and all that follows through ''House of Representatives'' and inserting ''plan, to the Chair-

persons and Ranking Members of the authorizing committees''; and

(II) by striking ''Chairmen and ranking minority members of such Committees'' and inserting ''Chairpersons and Ranking Members of the authorizing committees'';

(iv) in paragraph (8)(C), by striking ''implemented to the Chairman'' and all that follows through ''House of Representatives, and'' and inserting ''implemented to the Chairpersons and Ranking Members of the authorizing committees, and to''; and

(v) in the matter preceding subparagraph (A) of paragraph (10), by striking ''days to the Chairman'' and all that follows through ''Education and Labor'' and inserting ''days to the Chairpersons and Ranking Members of the authorizing committees''; and

(C) in subsection (s)(2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking ''Treasury and to the Chairman'' and all that follows through ''House of Representatives''

and inserting ''Treasury and to the Chairpersons and Ranking Members of the authorizing committees''; and

(ii) in subparagraph (B), by striking ''Treasury and to the Chairman'' and all that follows through ''House of Representatives'' and inserting ''Treasury and to the Chairpersons and Ranking Members of the authorizing committees'';

(10) in section 455(b)(8)(B) (20 U.S.C. 1087e(b)(8)(B)), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees'';

(11) in section 482(d) (20 U.S.C. 1089(d)), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives'' and inserting ''authorizing committees'';

(12) in section 483(c) (20 U.S.C. 1090(c)), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Rep-

resentatives'' and inserting ''authorizing committees'';

(13) in section 485 (20 U.S.C. 1092)—

(A) in subsection (f)(5)(A), by striking ''Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''authorizing committees''; and

(B) in subsection (g)(4)(B), by striking ''Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''authorizing committees'';

(14) in section 486 (20 U.S.C. 1093)—

(A) in subsection (e), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(B) in subsection (f)(3)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking ''Committee on Labor and Human Resources of

the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(ii) in the matter preceding clause (i) of subparagraph (B), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees'';

(15) in section 487A(a)(5) (20 U.S.C. 1094a(a)(5)), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(16) in section 498B(d) (20 U.S.C. 1099c–2(d))—

(A) in paragraph (1), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''; and

(B) in paragraph (2), by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''authorizing committees''.

**SEC. 7312. GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.**

Section 101 (20 U.S.C. 1001) is amended—

(1) in subsection (a)(3), by inserting '', or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to the review and approval by the Secretary'' after ''such a degree''; and

(2) by striking subsection (b)(2) and inserting the following:

''(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students persons—

''(A) who meet the requirements of section 484(d)(3);

''(B) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

"(C) who are dually or concurrently enrolled in such institution and a secondary school.".

**SEC. 7313. DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.**

Section 102 (20 U.S.C. 1002) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2)(A)(i) and inserting the following:

"(i) in the case of a graduate medical school located outside the United States—

"(I) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

"(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United

States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or'';

(B) by striking paragraph (3) and inserting the following:

''(3) LIMITATIONS BASED ON ENROLLMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

''(A) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

''(B) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recog-

nized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.";

(C) by redesignating paragraphs (4), (5), and (6), as paragraphs (5), (6), and (7), respectively; and

(D) by inserting after paragraph (3) the following:

"(4) LIMITATIONS BASED ON MODE OF DELIVERY.—

"(A) IN GENERAL.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

"(i) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998; or

"(ii) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section 3(3)(C), except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively.

"(B) DISTANCE EDUCATION PROGRAM ELIGIBILITY.—Notwithstanding subparagraph (A), an institution of higher education, other than a foreign institution, that offers education or training programs principally through distance

education shall be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

"(i) has been evaluated and determined (before or after the date of enactment of the Higher Education Amendments of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

"(I) is recognized by the Secretary under title IV; and

"(II) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3);

"(ii) is otherwise eligible to participate in programs authorized under title IV;

"(iii) has not had its participation in programs under title IV suspended or terminated within the previous 5 years;

"(iv) has not had, or failed to resolve, an audit finding or program review finding under this Act during the 2 years preceding the year for which the determina-

tion is made that, following any appeal to the Secretary, resulted in the institution being required to repay an amount that is equal to or greater than 25 percent of the total funds the institution received under the programs authorized under title IV for the most recent award year; and

"(v) has met the requirements of section 487(d), if applicable.

"(C) DEFINITION.—

"(i) IN GENERAL.—In this Act, except as otherwise provided, the term 'distance education' means a course or program that uses 1 or more of the technologies described in clause (ii) to—

"(I) deliver instruction to students who are separated from the instructor; and

"(II) support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously.

"(ii) INCLUSIONS.—For the purposes of clause (i), the technologies used may include—

"(I) the Internet;

"(II) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

"(III) audio conferencing; or

"(IV) video cassette, DVDs, and CD-ROMs, provided that they are used in a course in conjunction with the technologies listed in subclauses (I) through (III)."; and

(2) in subsection (b)(1)—

(A) in subparagraph (D), by inserting "and" after the semicolon;

(B) in subparagraph (E), by striking "; and" and inserting a period; and

(C) by striking subparagraph (F).

**SEC. 7314. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.**

Section 112 (20 U.S.C. 1011a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "It is the sense"; and

(B) by adding at the end the following:

"(2) It is the sense of Congress that—

"(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

"(B) individual colleges and universities have different missions and each institution should design its academic program in accordance with its educational goals;

"(C) within the context of institutional mission, a college should facilitate the free and open exchange of ideas;

"(D) students should not be intimated, harassed, discouraged from speaking out, or discriminated against;

"(E) students should be treated equally and fairly; and

"(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association."; and

(2) in subsection (b)(1), by inserting ", provided that the imposition of such sanction is done objectively and fairly" after "higher education".

**SEC. 7315. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.**

Section 114(g) (20 U.S.C. 1011c(g)) is amended by striking ''September 30, 2004'' and inserting ''September 30, 2011''.

**SEC. 7316. DRUG AND ALCOHOL ABUSE PREVENTION.**

Section 120 (20 U.S.C. 1011i) is amended by striking subsections (e) and (f) and inserting the following:

''(e) GRANTS DIRECTED AT REDUCING HIGHER EDUCATION DRUG AND ALCOHOL ABUSE.—

''(1) AUTHORIZATION OF PROGRAM.—The Secretary may award grants to eligible entities to enable the entities to reduce the rate of drug use, underage alcohol use, and binge drinking among students at institutions of higher education.

''(2) APPLICATIONS.—An eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

''(A) a description of how the eligible entity will work to enhance an existing, or where none exists to build a, statewide coalition;

''(B) a description of how the eligible entity will target underage students in the State;

"(C) a description of how the eligible entity intends to ensure that the statewide coalition is actually implementing the purpose described in paragraph (1) and moving toward the achievement indicators described in paragraph (4);

"(D) a list of the members of the statewide coalition or interested parties involved in the work of the eligible entity;

"(E) a description of how the eligible entity intends to work with State agencies on substance abuse prevention and education;

"(F) the anticipated impact of funds provided under this subsection in reducing the rates of drug abuse and underage alcohol use;

"(G) outreach strategies, including ways in which the eligible entity proposes to—

"(i) reach out to students;

"(ii) promote the purpose described in paragraph (1);

"(iii) address the range of needs of the students and the surrounding communities; and

"(iv) address community norms for underage students regarding drug and alcohol use; and

"(H) such additional information as required by the Secretary.

"(3) USES OF FUNDS.—Each eligible entity that receives a grant under this subsection shall use the grant funds to carry out the activities described in such entity's application submitted pursuant to paragraph (2).

"(4) ACCOUNTABILITY.—On the date on which the Secretary first publishes a notice in the Federal Register soliciting applications for grants under this subsection, the Secretary shall include in the notice achievement indicators for the program authorized under this subsection. The achievement indicators shall be designed—

"(A) to measure the impact that the statewide coalitions assisted under this subsection are having on the institutions of higher education and the surrounding communities, including changes in the number of alcohol and drug-related abuse incidents of any kind (including violations, physical assaults, sexual assaults, reports of intimidation, disruptions of

school functions, disruptions of student studies, mental health referrals, illnesses, or deaths);

"(B) to measure the quality and accessibility of the programs or information offered by the statewide coalitions; and

"(C) to provide such other measures of program impact as the Secretary determines appropriate.

"(5) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subsection shall be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities described in this subsection.

"(6) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, an institution of higher education as defined in section 102, or a nonprofit entity.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a).

"(C) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

1 "(D) STATEWIDE COALITION.—The term
2 'statewide coalition' means a coalition that—
3 "(i) includes—
4 "(I) institutions of higher edu-
5 cation within a State; and
6 "(II) a nonprofit group, a com-
7 munity anti-drug or underage drink-
8 ing prevention coalition, or another
9 substance abuse prevention group
10 within a State; and
11 "(ii) works toward lowering alcohol
12 abuse rates by targeting underage students
13 at institutions of higher education through-
14 out the State and in the surrounding com-
15 munities.
16 "(E) SURROUNDING COMMUNITY.—The
17 term 'surrounding community' means the com-
18 munity—
19 "(i) that surrounds an institution of
20 higher education participating in a state-
21 wide coalition;
22 "(ii) where the students from the in-
23 stitution of higher education take part in
24 the community; and

"(iii) where students from the institution of higher education live in off-campus housing.

"(7) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of a grant awarded under this subsection may be expended for administrative expenses.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

**SEC. 7317. PRIOR RIGHTS AND OBLIGATIONS.**

Section 121(a) (20 U.S.C. 1011j(a)) is amended—

(1) in paragraph (1), by striking "1999" and inserting "2006"; and

(2) in paragraph (2), by striking "1999" and inserting "2006".

**SEC. 7318. COST OF HIGHER EDUCATION.**

Section 131 (20 U.S.C. 1015) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLEGE CONSUMER INFORMATION.—

"(1) IN GENERAL.—The Secretary shall make available to the public the information described in

paragraph (2), in a form that enables the public to compare the information among institutions of higher education. Such information shall be made available for each of the categories described in paragraph (3) and updated annually.

"(2) INFORMATION.—The information described in this paragraph is the following:

"(A) Tuition and fees for a first-time, full-time undergraduate student.

"(B) Cost of attendance for a first-time, full-time undergraduate student.

"(C) The average annual cost of attendance for a first-time, full-time undergraduate student for the preceding periods of 5 and 10 academic years preceding the year for which the information is made available under this subsection, or if data are not available for such academic years, data for as many of such academic years as are available.

"(D) The percentage of full-time undergraduate students receiving financial assistance, including—

"(i) Federal grants;

"(ii) State and local grants;

"(iii) institutional grants; and

"(iv) loans to students.

"(E) The average amount of financial aid received by students from sources described in clauses (i) through (iv) of subparagraph (D).

"(F) Graduation rates, as described in section 485(a)(1)(L).

"(G) A ranking of the dollar and percentage increases in tuition and fees for all institutions of higher education for which data are available in each of the categories described in paragraph (3).

"(3) CATEGORIES.—The categories described in this paragraph are as follows:

"(A) All institutions of higher education.

"(B) 4-year public, degree-granting, institutions of higher education.

"(C) 2-year public, degree-granting, institutions of higher education.

"(D) 4-year, nonprofit, private, degree-granting institutions of higher education.

"(E) 2-year, nonprofit, private, degree-granting institutions of higher education.

"(F) 4-year, for-profit, private, degree-granting institutions of higher education.

"(G) 2-year, for-profit, private, degree-granting institutions of higher education.

"(H) Less than 2-year, for-profit, private institutions of higher education.

"(4) STANDARD DEFINITIONS.—In carrying out this section, the Secretary shall use the standard definitions developed under subsection (a)(3)."; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting "be conducted on an annual basis and" after "Such study shall";

(B) in paragraph (2)—

(i) in subparagraph (B), by striking "and" after the semicolon;

(ii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

"(D) the average cost of attending an institution of higher education, disaggregated by category, as described in subsection (b)(3);

"(E) the average annual cost of attending an institution of higher education for the periods of 5 and 10 academic years preceding the year for which the study is conducted (or if

data are not available for such academic years, data for as many of such academic years as are available), disaggregated by category, as described in subsection (b)(3); and

"(F) the assistance provided to institutions of higher education by each State.";

(C) in paragraph (3)—

(i) in the paragraph heading, by striking "FINAL" and inserting "ANNUAL";

(ii) by striking "a report" and inserting "an annual report"; and

(iii) by striking "not later than September 30, 2002" and inserting "and the public"; and

(D) by striking paragraph (4) and inserting the following:

"(4) HIGHER EDUCATION COST INDEX.—The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education cost index that tracks inflation changes in the relevant costs associated with higher education.".

**SEC. 7319. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.**

Section 141 (20 U.S.C. 1018) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''operational'' and inserting ''administrative and oversight''; and

(B) in paragraph (2)(D), by striking ''of the operational functions'' and inserting ''and administration'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''the information systems administered by the PBO, and other functions performed by the PBO'' and inserting ''the Federal student financial assistance programs authorized under title IV''; and

(ii) by striking subparagraph (C) and inserting the following:

''(C) assist the Chief Operating Officer in identifying goals for—

''(i) the administration of the systems used to administer the Federal student fi-

nancial assistance programs authorized under title IV; and

"(ii) the updating of such systems to current technology."; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "administration of the information and financial systems that support" and inserting "the administration of Federal";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "of the delivery system for Federal student assistance" and inserting "for the Federal student assistance programs authorized under title IV";

(II) by striking clauses (i) and (ii) and inserting the following:

"(i) the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;

"(ii) the design and technical specifications for software development and pro-

curement for systems supporting the student financial assistance programs authorized under title IV;'';

(III) in clause (iii), by striking ''delivery'' and inserting ''administration'';

(IV) in clause (iv)—

(aa) by inserting ''the'' after ''supporting''; and

(bb) by striking ''and'' after the semicolon;

(V) in clause (v), by striking ''systems that support those programs.'' and inserting ''the administration of the Federal student assistance programs authorized under title IV; and''; and

(VI) by adding at the end the following:

''(vi) ensuring the integrity of the student assistance programs authorized under title IV.''; and

(iii) in subparagraph (B), by striking ''operations and services'' and inserting ''activities and functions''; and

(3) in subsection (c)—

(A) in paragraph (1)(C)—

(i) in clause (iii), by striking ''information and delivery''; and

(ii) in clause (iv)—

(I) by striking ''Developing an'' and inserting ''Developing''; and

(II) by striking ''delivery and information system'' and inserting ''systems'';

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''the'' after ''PBO and''; and

(ii) in subparagraph (B), by striking ''Officer'' and inserting ''Officers''; and

(C) in paragraph (3), by inserting ''students,'' after ''consult with'';

(4) in subsection (d)—

(A) in paragraph (1), by striking the second sentence; and

(B) in paragraph (5)—

(i) in subparagraph (B), by striking ''paragraph (2)'' and inserting ''paragraph (4)''; and

(ii) in subparagraph (C), by striking ''this'';

(5) in subsection (f)—

(A) in paragraph (2), by striking ''to borrowers'' and inserting ''to students, borrowers,''; and

(B) in paragraph (3)(A), by striking ''(1)(A)'' and inserting ''(1)'';

(6) in subsection (g)(3), by striking ''not more than 25'';

(7) in subsection (h), by striking ''organizational effectiveness'' and inserting ''effectiveness'';

(8) by striking subsection (i);

(9) by redesignating subsection (j) as subsection (i); and

(10) in subsection (i) (as redesignated by paragraph (9)), by striking '', including transition costs''.

**SEC. 7320. PROCUREMENT FLEXIBILITY.**

Section 142 (20 U.S.C. 1018a) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''for information systems supporting the programs authorized under title IV''; and

(ii) by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) through the Chief Operating Officer—

''(A) to the maximum extent practicable, utilize procurement systems that streamline operations, improve internal controls, and enhance management; and

''(B) assess the efficiency of such systems and assess such systems' ability to meet PBO requirements.'';

(2) by striking subsection (c)(2) and inserting the following:

''(2) FEE FOR SERVICE ARRANGEMENTS.—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the functions set forth in section 141(b)(2) from any entity that has the capability and capacity to meet the requirements set by the PBO. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides services

that meet the requirements of the PBO, as determined by the Chief Operating Officer.'';

(3) in subsection (d)(2)(B), by striking ''on Federal Government contracts'';

(4) in subsection (g)—

(A) in paragraph (4)(A)—

(i) in the subparagraph heading, by striking ''SOLE SOURCE.—'' and inserting ''SINGLE-SOURCE BASIS.—''; and

(ii) by striking ''sole-source'' and inserting ''single-source''; and

(B) in paragraph (7), by striking ''sole-source'' and inserting ''single-source'';

(5) in subsection (h)(2)(A), by striking ''sole-source'' and inserting ''single-source''; and

(6) in subsection (l), by striking paragraph (3) and inserting the following:

''(3) SINGLE-SOURCE BASIS.—The term 'single-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only such source (although such source is not the only source in the marketplace capable of meeting the need) because such source is the most advantageous source for purposes of the award.''.

# CHAPTER 3—TEACHER QUALITY ENHANCEMENT

## SEC. 7331. TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS.

Part A of title II (20 U.S.C. 1021 et seq.) is amended to read as follows:

## "PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

### "SEC. 201. PURPOSES; DEFINITIONS.

''(a) PURPOSES.—The purposes of this part are to—

''(1) improve student achievement;

''(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

''(3) hold institutions of higher education accountable for preparing highly qualified teachers; and

''(4) recruit qualified individuals, including minorities and individuals from other occupations, into the teaching force.

''(b) DEFINITIONS.—In this part:

''(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

"(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject areas in which teachers provide instruction; and

"(B) when referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

"(2) CHILDREN FROM LOW-INCOME FAMILIES.—The term 'children from low-income families' means children as described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965.

"(3) EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'early childhood education program' means a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), a State licensed or regulated child care program or school, or a State prekindergarten program that serves children from birth through kindergarten and that addresses the children's cognitive (including language, early lit-

eracy, and pre-numeracy), social, emotional, and physical development.

"(4) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means an individual with primary responsibility for the education of children in an early childhood education program.

"(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(6) EXEMPLARY TEACHER.—The term 'exemplary teacher' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(7) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency or educational service agency—

"(A)(i) that serves not fewer than 10,000 children from low-income families;

"(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

"(iii) with a total of less than 600 students in average daily attendance at the schools that

are served by the agency and all of whose schools are designated with a school locale code of 7 or 8, as determined by the Secretary; and

"(B)(i) for which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

"(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

"(8) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act.

"(9) PROFESSIONAL DEVELOPMENT.—The term 'professional development' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(10) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research' has the meaning given such term in section

1208 of the Elementary and Secondary Education Act of 1965.

"(11) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(12) TEACHER MENTORING.—The term 'teacher mentoring' means mentoring of teachers through an established or implemented program—

"(A) that includes qualifications for mentors;

"(B) that provides training for mentors;

"(C) that provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the school day;

"(D) in which the mentoring is provided by a colleague who teaches in the same field, grade, or subject as the mentee; and

"(E) that includes—

"(i) common planning time or regularly scheduled collaboration with teachers in the teachers' same field, grade, or subject area; and

1 "(ii) additional professional develop-
2 ment opportunities.
3 "(13) TEACHING SKILLS.—The term 'teaching
4 skills' means the ability to—
5 "(A) increase student achievement;
6 "(B) effectively convey and explain aca-
7 demic subject matter;
8 "(C) employ strategies that—
9 "(i) are based on scientifically based
10 research;
11 "(ii) are specific to academic subject
12 matter; and
13 "(iii) focus on identification and tai-
14 loring of academic instruction to students'
15 specific learning needs, particularly stu-
16 dents with disabilities, students who are
17 limited English proficient, and students
18 who are gifted and talented;
19 "(D) conduct ongoing assessment of stu-
20 dent learning;
21 "(E) effectively manage a classroom;
22 "(F) communicate and work with parents
23 and guardians, and involve parents and guard-
24 ians in their children's education; and

"(G) in the case of an early childhood educator, use age appropriate strategies and practices for children in early childhood education programs.

**"SEC. 202. STATE GRANTS.**

"(a) IN GENERAL.—From amounts made available under section 209(a)(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsections (d) and (e).

"(b) ELIGIBLE STATE.—

"(1) DEFINITION.—In this part, the term 'eligible State' means—

"(A) the Governor of a State; or

"(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification or licensure and preparation activity, such individual, entity, or agency.

"(2) CONSULTATION.—The Governor or the individual, entity, or agency designated under paragraph (1)(B) shall consult with the Governor, State board of education, State educational agency, State

agency for higher education, or other applicable State entities (including the State agency responsible for early childhood education), as appropriate, with respect to the activities assisted under this section, including the development of the grant application and implementation of the activities.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible State shall submit an application to the Secretary that—

"(1) meets the requirement of this section;

"(2) demonstrates that the eligible State is in full compliance with—

"(A) sections 206(b) and 207; and

"(B) if applicable, sections 207(b) and 208, as such sections were in effect on the day before the date of enactment of the Higher Education Amendments of 2005;

"(3) includes a description of how the eligible State intends to use funds provided under this section;

"(4) includes measurable objectives for the use of the funds provided under this section;

"(5) describes how funded activities will—

"(A) reduce shortages, if any, of—

"(i) highly qualified general and special education teachers, including in low-income urban and rural areas and in high-need academic subject areas; and

"(ii) fully competent early childhood educators; and

"(B) be consistent with State, local, and other education reform activities that promote effective teaching skills and student academic achievement and consistent with State early learning standards for early childhood education programs, including how funded activities will support carrying out the applicable requirements of the eligible State under sections 1111 and 1119 of the Elementary and Secondary Education Act of 1965, and section 612(a)(14) of the Individuals with Disabilities Education Act;

"(6) contains an assurance that the eligible State will carry out each of the intended uses of grant funds described in paragraph (3);

"(7) describes the eligible State's—

"(A) current capacity to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data;

"(B) activities to enhance or expand the integration of existing data systems to better measure the effectiveness of teacher preparation programs and professional development activities within the State; or

"(C) if such data systems do not exist, plans for the development of an integrated statewide data system to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data; and

"(8) contains such other information and assurances as the Secretary may require.

"(d) REQUIRED USES OF FUNDS.—An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, to coordinate with State activities under section 2113(c) of the

Elementary and Secondary Education Act of 1965 and subsections (a) and (b) of section 654 of the Individuals with Disabilities Education Act, and to ensure that current and prospective teachers are highly qualified, by carrying out each of the following activities:

"(1) REFORMS.—Ensuring that all teacher preparation programs in the State are preparing current or prospective teachers to become highly qualified, to understand scientifically based research and its applicability, and to use technology effectively, including use of instructional techniques to improve student academic achievement, by assisting such programs—

"(A) in retraining faculty;

"(B) in designing (or redesigning) teacher preparation programs so that such programs—

"(i) are based on rigorous academic content and scientifically based research (including scientifically based reading research), and aligned with challenging State academic content standards;

"(ii) promote effective teaching skills; and

"(iii) promote understanding of effective instructional strategies for students

with special needs, including students with disabilities, students who are limited English proficient, and students who are gifted and talented;

"(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in relevant academic content areas to ensure a successful combination of training in both teaching and such content;

"(D) in developing high-quality, rigorous clinical experiences (that include student teaching experience) in which students participate while enrolled in a teacher preparation program, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities; and

"(E) in collecting and using data, in collaboration with institutions of higher education, schools, and local educational agencies, on teacher retention rates, by school, to evaluate and strengthen the effectiveness of the State's teacher support system.

"(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Reforming teacher certification or licensure requirements to ensure that—

"(A) teachers have the academic content knowledge and teaching skills in the academic subject areas that the teachers teach that are necessary to help students meet challenging State student academic achievement standards, as required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965;

"(B) such requirements are aligned with challenging State academic content standards, as required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965;

"(C) teacher certification and licensure assessments are—

"(i) used for purposes for which such assessments are valid and reliable;

"(ii) consistent with relevant, professional, and technical standards; and

"(iii) aligned with the reporting requirements of sections 205 and 206; and

"(D) such requirements for high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational programs, and early childhood education) exist and reflect qualifications to help students meet high standards, which may include the development of a State test for such areas.

"(3) EVALUATION.—

"(A) ANNUAL EVALUATION.—An eligible State that receives a grant under this section shall evaluate annually the effectiveness of teacher preparation programs and professional development activities within the State. To the extent practicable, such evaluation shall examine—

"(i) teachers' contributions to improving student academic achievement, as measured by State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965; and

"(ii) teacher mastery of the academic subject matter the teachers teach.

"(B) PUBLIC REPORTING.—The eligible State shall make the information described in subparagraph (A) widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except such reporting shall not be made in a case in which the reporting of the data would reveal personally identifiable information about a teacher or student.

"(C) BETTER MEASUREMENT OF EFFECTIVENESS.—

"(i) IN GENERAL.—An eligible State that receives a grant under this section and does not have the capacity to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data, shall use a portion of funds received under this section to enhance or expand the integration of existing data systems, as described in subsection (c)(7)(B), or develop an integrated statewide data system, as described in subsection

(c)(7)(C), to better measure and provide information that will improve the effectiveness of teacher preparation programs on student learning and achievement, and the impact of pre-service and ongoing professional development on teacher placement and retention.

"(ii) TECHNICAL QUALITY; STUDENT PRIVACY; FUNDS FROM OTHER SOURCES.—In carrying out clause (i), the eligible State shall ensure—

"(I) the technical quality of the data system to maximize the validity, reliability, and accessibility of the data;

"(II) that student privacy is protected and that individually identifiable information about students, their achievements, and their families remains confidential, in accordance with the Family Educational Rights and Privacy Act of 1974; and

"(III) that funds provided under this section are used to supplement State efforts to enhance or expand the

integration of existing data systems or to develop an integrated statewide data system.

"(e) ALLOWABLE USES OF FUNDS.—An eligible State that receives a grant under this section may use the grant funds to reform teacher preparation requirements, to coordinate with State activities under section 2113(c) of the Elementary and Secondary Education Act of 1965 and subsections (a) and (b) of section 654 of the Individuals with Disabilities Education Act, and to ensure that current and future teachers are highly qualified, by carrying out any of the following activities:

"(1) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING AND STATE CERTIFICATION OR LICENSURE.—Providing prospective teachers with alternative routes to State certification or licensure and alternative route programs to become highly qualified teachers through—

"(A) innovative approaches that reduce unnecessary barriers to State certification or licensure while producing highly qualified teachers;

"(B) a selective means for admitting individuals into such programs that includes passage of State approved teacher examinations in appropriate subject areas;

"(C) programs that help prospective teachers develop effective teaching skills and strategies through knowledge of research-based information on the learning process and learning practices;

"(D) programs that provide support to teachers during the teachers' initial years in the profession; and

"(E) alternative routes to State certification or licensure of teachers for qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college graduates with records of academic distinction.

"(2) INNOVATIVE PROGRAMS.—Planning and implementing innovative programs to enhance the ability of institutions of higher education, including charter colleges of education, or university and local educational agency partnership schools, to prepare highly qualified teachers, which programs shall—

"(A) permit flexibility in the manner in which the institution of higher education meets State requirements as long as graduates, during the graduates' initial years in the profession, increase student academic achievement;

"(B) provide a description in the application of long-term data gathered from teachers' performance over multiple years in the classroom regarding the teachers' ability to increase student academic achievement;

"(C) ensure high-quality preparation of teachers from underrepresented groups;

"(D) create performance measures that can be used to document the effectiveness of innovative methods for preparing highly qualified teachers; and

"(E) develop frameworks for exemplary induction programs informed by research and best practices.

"(3) TEACHER RECRUITMENT AND RETENTION.—Undertaking activities that develop and implement effective mechanisms to ensure that local educational agencies and schools are able to recruit and retain highly qualified teachers, which may include the following activities:

"(A) PERFORMANCE BASED COMPENSATION.—Assisting local educational agencies in developing—

"(i) performance systems that reward teachers who increase student academic

achievement and take on additional responsibilities, such as teacher mentoring and serving as master teachers; and

"(ii) strategies that provide differential and bonus pay in high-need local educational agencies to recruit and retain—

"(I) principals;

"(II) highly qualified teachers who teach in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(III) highly qualified teachers who teach in schools identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965;

"(IV) highly qualified special education teachers;

"(V) highly qualified teachers specializing in teaching children who are limited English proficient; and

"(VI) highly qualified teachers in low-income urban and rural schools or districts.

"(B) ADDITIONAL MECHANISMS.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to—

"(i) address needs identified with respect to—

"(I) underrepresented groups;

"(II) high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(III) high-need areas (such as special education, language instruction educational programs for limited English proficient students, and early childhood education);

"(IV) high-need communities, such as rural and urban areas; and

"(V) high-need schools, including schools with high rates of teacher turnover;

"(ii) offer teacher mentoring for new teachers during such teachers' initial years of teaching; and

"(iii) provide access to ongoing professional development and innovative training opportunities for teachers and administrators.

"(C) TEACHER ADVANCEMENT.—Assisting local educational agencies in developing teacher advancement and retention initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a highly qualified mentor teacher or exemplary teacher) and pay differentiation.

"(D) RECRUIT QUALIFIED PROFESSIONALS.—Developing recruitment programs or assisting local educational agencies in—

"(i) recruiting qualified professionals from other fields, including highly qualified paraprofessionals (as defined in section 2102 of the Elementary and Secondary Education Act of 1965); and

"(ii) providing such professionals with alternative routes to teacher certification or licensure.

"(E) UNDERREPRESENTED POPULATIONS.—Providing increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession to become highly qualified teachers.

"(F) RURAL EDUCATION RECRUITMENT AND RETENTION PROGRAMS.—Making grants to rural school districts, or a consortia of rural school districts, to implement—

"(i) teacher recruitment strategies, which may include tuition assistance, student loan forgiveness, housing assistance, bonus pay, and other effective approaches;

"(ii) teacher retention strategies, such as mentoring programs and ongoing opportunities for professional growth and advancement; and

"(iii) partnerships with institutions of higher education designed to—

"(I) prepare beginning teachers to teach; and

"(II) assist teachers (including teachers who teach multiple subjects) to become highly qualified.

"(4) TEACHER SCHOLARSHIPS AND SUPPORT.—Providing—

"(A) scholarships to help students, such as individuals who have been accepted by, or who are enrolled in, a program of undergraduate education or initial teacher preparation at an institution of higher education, pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, if—

"(i) the Secretary establishes such requirements as the Secretary determines necessary to ensure that recipients of scholarships under this section who complete teacher preparation programs—

"(I) subsequently teach in an early childhood education program or a high-need local educational agency for a period of time equivalent to the period of time for which the recipient received scholarship assistance, plus an additional 1 year; or

"(II) repay the amount of the scholarship if the recipient does not teach as described in subclause (I); and

"(ii) the eligible State provides an assurance that the eligible State will recruit minority students to become highly qualified teachers;

"(B) support services, if needed, to enable scholarship recipients to complete postsecondary education programs, or to move from a career outside of the field of education into a teaching career; and

"(C) follow-up services to former scholarship recipients during the recipients' initial years of teaching.

"(5) TEACHER REMOVAL.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

"(6) TEACHER EFFECTIVENESS.—Developing—

"(A) systems to measure the effectiveness of teacher preparation programs and professional development programs; and

"(B) strategies to document gains in student academic achievement or increases in teacher mastery of the academic subject matter

the teachers teach, as a result of such programs.

"(7) EARLY CHILDHOOD EDUCATORS.—Developing strategies to improve and expand teacher preparation programs for early childhood educators to teach in early childhood education programs.

"(8) PROFESSIONAL DEVELOPMENT.—Developing and enhancing high-quality professional development, instructional materials, and relevant educational materials.

"(9) TECHNOLOGY.—Assisting teachers to use technology effectively, including use for instructional techniques and the collection, management, and analysis of data to improve teaching, learning, and decision making for the purpose of increasing student academic achievement.

"(10) AREAS OF INSTRUCTIONAL SHORTAGE.—Increasing the number of—

"(A) teachers in the classroom providing instruction in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational pro-

grams for limited English proficient students, and early childhood education); and

"(B) special education faculty dedicated to preparing highly qualified special education teachers at institutions of higher education.

"(11) TECHNICAL ASSISTANCE.—Providing technical assistance to low-performing programs of teacher preparation within institutions of higher education identified under section 207(a).

"(12) EVALUATION SUPPORT.—Performing data collection, evaluation, and reporting to meet the requirements of subsection (d)(3).

"(13) PROFESSIONAL ADVANCEMENT.—Developing a professional advancement system to—

"(A) initiate or enhance a system in which highly qualified teachers who pursue advanced licensure levels are required to demonstrate increased competencies and undertake increased responsibilities for increased compensation as the teachers progress through levels established by the State; or

"(B) provide opportunities for professional growth, including through—

"(i) a nationally recognized advance credentialing system; or

"(ii) special certification in advanced placement or international baccalaureate content, teaching gifted and talented students, and pedagogy.

"(f) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

**"SEC. 203. PARTNERSHIP GRANTS.**

"(a) GRANTS.—From amounts made available under section 209(a)(2) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (e) and (f).

"(b) DEFINITIONS.—

"(1) ELIGIBLE PARTNERSHIP.—

"(A) IN GENERAL.—In this part, the term 'eligible partnership' means an entity that shall include—

"(i) a partner institution;

"(ii) a school of arts and sciences;

"(iii) a high-need local educational agency and a school or a consortium of schools served by the agency; and

"(iv) at least 1 individual or entity described in subparagraph (B).

"(B) ADDITIONAL INDIVIDUALS AND ENTITIES.—In this part, the term 'eligible partnership' means an entity that shall include at least 1 of the following:

"(i) A Governor.

"(ii) A State educational agency.

"(iii) A State board of education.

"(iv) A State agency for higher education.

"(v) A school or department within the partner institution focusing on education, psychology, human development, or a department with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

"(vi) An institution of higher education or a department within such institution, not described in subparagraph (A).

"(vii) A public charter school.

"(viii) A public or private elementary school or secondary school.

"(ix) A public or private nonprofit educational organization.

"(x) A business.

"(xi) A science-, mathematics-, or technology-oriented entity.

"(xii) An early childhood education program.

"(xiii) A teacher organization.

"(xiv) An educational service agency.

"(xv) A consortium of local educational agencies.

"(xvi) A nonprofit telecommunications entity.

"(2) PARTNER INSTITUTION.—In this section, the term 'partner institution' means an institution of higher education, which may include a 2-year institution of higher education offering a dual program with a 4-year institution of higher education, that has a teacher preparation program—

"(A) whose graduates exhibit strong performance on State-determined qualifying assessments for new teachers through—

"(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

"(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

"(I) using criteria consistent with the requirements for the State report card under section 206(b); and

"(II) using the State report card on teacher preparation required under section 206(b), after the first publication of such report card and for every year thereafter; or

"(B) that requires all the students of the program to meet high academic standards and participate in intensive clinical experience, and—

"(i) in the case of secondary school candidates, to successfully complete—

"(I) a major or its equivalent in coursework in the academic subject area in which the candidate intends to teach; or

"(II) a related major in the academic subject area in which the candidate intends to teach;

"(ii) in the case of elementary school candidates, to successfully complete—

"(I) an academic major or its equivalent in coursework in the arts and sciences; or

"(II) a major in elementary education with a significant amount of coursework in the arts and sciences; and

"(iii) in the case of early childhood educators, to become fully competent and meet degree requirements, as established by the State.

"(c) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accom-

panied by such information as the Secretary may require. Each such application shall contain—

"(1) a needs assessment of all the partners with respect to the preparation, induction, and professional development of early childhood educators, general and special education teachers, and principals;

"(2) a description of the extent to which the teacher preparation program of the eligible partnership prepares new teachers with effective teaching skills;

"(3) a description of how the eligible partnership will coordinate with other teacher preparation or professional development programs, including those funded under the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, and how the activities of the eligible partnership will be consistent with State, local, and other education reform activities that promote student achievement;

"(4) a resource assessment that describes the resources available to the eligible partnership, the intended use of the grant funds (including a description of how the grant funds will be fairly distributed), and the commitment of the resources of the

eligible partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant period ends;

"(5) a description of—

"(A) how the eligible partnership will meet the purposes of this part;

"(B) how the eligible partnership will carry out the activities required under subsection (e) and any permissible activities under subsection (f);

"(C) the eligible partnership's evaluation plan pursuant to section 205(b);

"(D) how the eligible partnership will align the teacher preparation program with the challenging student academic achievement standards, State early learning standards for early childhood education programs (where applicable), and challenging academic content standards, established by the State in which the partnership is located;

"(E) how faculty of the teacher preparation program at the partner institution will serve, over the period of the grant, with highly qualified teachers in the classrooms of the high-

need local educational agency included in the eligible partnership;

"(F) how the eligible partnership will ensure that teachers, principals, and superintendents in all schools (including private schools, as appropriate) located in the geographic areas served by an eligible partnership under this section are provided information about the activities carried out with funds under this section, including through electronic means;

"(G) how the eligible partnership will design, implement, or enhance the clinical program component, including promoting close supervision of student teachers by faculty of the teacher preparation program and mentor teachers while in the program and during the student teachers' initial years of teaching if hired by schools included in the eligible partnership;

"(H) how the eligible partnership will develop or enhance an induction program that includes high-quality professional development to support new teachers during the teachers' initial years of teaching that includes teacher mentoring and collaborating with teachers in the same grade, department, or field; and

"(I) how the eligible partnership will collect, analyze, use, and disseminate data on the retention of all teachers in schools located in the geographic areas served by the eligible partnership to evaluate the effectiveness of its teacher support system; and

"(6) an assurance that the eligible partnership will carry out each of the activities described in paragraph (5).

"(d) CONSULTATION.—

"(1) IN GENERAL.—Members of an eligible partnership that receives a grant under this section shall engage in regular consultation throughout the development and implementation of programs and activities under this section.

"(2) REGULAR COMMUNICATION.—To ensure timely and meaningful consultation, regular communication shall occur among all members of the eligible partnership, including the high-need local educational agency. Such communication shall continue throughout the implementation of the grant and the assessment of programs and activities under this section.

"(3) WRITTEN CONSENT.—The Secretary may approve changes in grant activities only if a written

consent signed by all members of the eligible partnership is submitted to the Secretary.

"(e) REQUIRED USES OF FUNDS.—An eligible partnership that receives a grant under this section shall use the grant funds to carry out each of the following activities:

"(1) REFORMS.—Ensuring that each teacher preparation program and each early childhood educator preparation program, where applicable, of the eligible partnership that is assisted under this section addresses the needs identified in the needs assessment of the partnership and is preparing current or prospective teachers to be highly qualified, and, where applicable, early childhood educators to be fully competent, to understand scientifically based research and its applicability, and to use technology effectively, including use of instructional techniques to improve student academic achievement, and in the case of early childhood educators, techniques to improve children's cognitive, social, emotional, and physical development, by assisting such programs—

"(A) in retraining faculty;

"(B) in designing (or redesigning) teacher preparation programs so that such programs—

"(i) are based on rigorous academic content and scientifically based research (including scientifically based reading research), and aligned with challenging State academic content standards, as required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, and for early childhood educators, aligned with State early learning standards;

"(ii) promote effective teaching skills;

"(iii) promote understanding of effective instructional strategies for students with special needs, including students with disabilities, students who are limited English proficient, students who are gifted and talented, and children in early childhood education programs; and

"(iv) promote high-quality mathematics, science, and foreign language instruction, where applicable;

"(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in all academic content

areas to ensure a successful combination of training in both teaching and such content; and

"(D) in developing high-quality, rigorous clinical experiences, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities.

"(2) CLINICAL EXPERIENCE AND INTERACTION.—Improving sustained and high-quality preservice clinical experiences, including—

"(A) providing teacher mentoring; and

"(B) substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time and release time, for such interaction.

"(3) SUPPORT PROGRAMS FOR NEW TEACHERS.—Creating a program to support new teachers during the initial years of teaching (for not less than 1 year and not more than 3 years). Such program shall promote effective teaching skills and may include the following components:

"(A) Development of skills in educational interventions based on scientifically based research.

"(B) Development of knowledge of scientifically based research on teaching and learning.

"(C) Inclusion of faculty who model the integration of research and practice in the classroom.

"(D) Opportunities for—

"(i) high-quality teacher mentoring; and

"(ii) additional professional development, dissemination of evidence-based research on educational practices, and professional development activities.

"(E) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers in the learning process and the assessment of learning.

"(f) ALLOWABLE USES OF FUNDS.—An eligible partnership that receives a grant under this section may use the grant funds to carry out any of the following activities that address the needs identified in the needs assessment:

"(1) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING AND STATE CERTIFICATION OR LICENSURE.—The activity described in section 202(e)(1).

"(2) DISSEMINATION AND COORDINATION.—Broadly disseminating information on effective practices used by the eligible partnership, and coordinating with the recruitment and training activities of the Governor, State board of education, State agency for higher education, State agency responsible for early childhood education, and State educational agency, as appropriate.

"(3) INNOVATIVE PROGRAMS.—Developing innovative programs designed to provide graduates of programs funded under this title with opportunities to continue their education through supports and opportunities to improve instructional practices in the initial years of teaching, including the following:

"(A) INTERNSHIPS.—

"(i) TEACHER PREPARATION ENHANCEMENT INTERNSHIP.—Developing a 1-year paid internship program for students who have completed an initial teacher preparation program, or alternative routes to State certification or licensure

program, to enable such students to develop the skills and experience necessary for success in teaching, including providing intensive clinical training and combining in-service instruction in teacher methods and assessments with classroom observations, experiences, and practices. Such interns shall have a reduced teaching load and a mentor for assistance in the classroom.

''(ii) MID-CAREER PROFESSIONAL INTERNSHIPS.—Developing a 1-year paid internship program for mid-career professionals from other occupations, former military personnel, and recent college graduates from fields other than teacher preparation with records of academic distinction to enable such individuals to develop the skills and experience necessary for success in teaching, including providing intensive clinical training and combining in-service instruction in teacher methods and assessments with classroom observations, experiences, and practices. Such interns shall

have a reduced teaching load and a mentor for assistance in the classroom.

"(B) RESIDENCY PROGRAMS FOR NEW TEACHERS.—Supporting teachers in a residency program that provides an induction period for all new general education and special education teachers that includes—

"(i) a forum for information sharing among prospective teachers, teachers, principals, administrators, and participating faculty in the partner institution; and

"(ii) the application of scientifically based research on teaching and learning generated by entities such as the Institute of Education Sciences, and the National Research Council of the National Academies.

"(C) PATHWAYS FOR PARAPROFESSIONALS TO ENTER TEACHING.—Creating intensive programs to provide the coursework and clinical experiences needed by highly qualified paraprofessionals, as defined in section 2102 of the Elementary and Secondary Education Act of 1965, to qualify for State teacher certification or licensure to become highly qualified teachers.

"(4) MANAGERIAL AND LEADERSHIP SKILLS.—Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial, leadership, curricula, and instructional skills that result in increased student academic achievement.

"(5) TEACHER SCHOLARSHIPS AND SUPPORT.—Providing—

"(A) scholarships to help students, such as individuals who have been accepted by, or who are enrolled in, a program of undergraduate education at an institution of higher education, pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, if—

"(i) the Secretary establishes such requirements as the Secretary determines necessary to ensure that recipients of scholarships under this paragraph who complete teacher preparation programs—

"(I) subsequently teach in a high-need local educational agency for a period of time equivalent to the period of time for which the recipient re-

ceived the scholarship assistance, plus an additional 1 year; or

"(II) repay the amount of the scholarship if the recipient does not teach as described in subclause (I); and

"(ii) the eligible partnership provides an assurance that the eligible partnership will recruit minority students to become highly qualified teachers;

"(B) support services, if needed, to enable scholarship recipients to complete postsecondary education programs, or to transition from a career outside of the field of education into a teaching career; and

"(C) follow-up services for former scholarship recipients during the recipients' initial years of teaching.

"(6) COORDINATION WITH COMMUNITY COLLEGES.—

"(A) TEACHER PREPARATION PROGRAMS.—Coordinating with 2-year institutions of higher education to implement teacher preparation programs, including through distance

learning, for the purposes of allowing prospective teachers—

"(i) to obtain a bachelor's degree and State certification or licensure; and

"(ii) to become highly qualified teachers.

"(B) PROFESSIONAL DEVELOPMENT.—Coordinating with 2-year institutions of higher education to provide professional development that—

"(i) improves the academic content knowledge of teachers in the academic subject areas in which the teachers are certified or licensed to teach, or in which the teachers are working toward certification or licensure to teach; and

"(ii) promotes effective teaching skills.

"(7) CLINICAL EXPERIENCE IN SCIENCE, MATHEMATICS, AND TECHNOLOGY.—Creating opportunities for clinical experience and training for teachers and prospective teachers through participation with professionals in business, research, and work environments in areas relating to science, mathematics, and technology, including opportunities for using laboratory equipment.

"(8) PROFESSIONAL DEVELOPMENT.—Creating opportunities for enhanced and ongoing professional development for experienced general education and special education teachers, early childhood educators, principals, administrators, and faculty.

"(9) TECHNOLOGY.—The activity described in section 202(e)(9).

"(10) AREAS OF INSTRUCTIONAL SHORTAGE.—Increasing the number of—

"(A) teachers in the classroom providing instruction in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages), and high-need areas (such as special education, language instruction educational programs for limited English proficient students, and early childhood education);

"(B) special education faculty dedicated to preparing highly qualified special education teachers at institutions of higher education; and

"(C) faculty at institutions of higher education with expertise in instruction of students who are limited English proficient.

"(11) IMPROVING INSTRUCTION.—Improving instruction by—

"(A) improving understanding and instruction in core academic subjects and other, specialized courses, such as geography, American history and government, and world history; and

"(B) creating externships for teachers and prospective teachers for field experience and training through participation in business, research, and work environments in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational programs for limited English proficient students, and early childhood education).

"(12) GRADUATE PROGRAMS.—Developing, in collaboration with departments, programs, or units of both academic content and teacher education within a partner institution, master's degree programs that meet the demonstrated needs of teachers in the high-need local educational agency participating in the eligible partnership for content expertise and teaching skills.

"(13) LITERACY TEACHER TRAINING.—Establishing and implementing a program that strength-

ens content knowledge and teaching skills of secondary school teachers in literacy that—

"(A) provides teacher training and stipends for literacy coaches who train classroom teachers to implement literacy programs;

"(B) develops or redesigns rigorous research-based curricula that are aligned with challenging State academic content standards, as required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, and with postsecondary standards for reading and writing;

"(C) provides training and stipends for teachers to tutor students with intense individualized reading, writing, and subject matter instruction during or beyond the school day;

"(D) provides opportunities for teachers to plan and assess instruction with other teachers, school leaders, and faculty at institutions of higher education; and

"(E) establishes an evaluation and accountability plan for activities conducted under this paragraph to measure the impact of such activities.

1 "(g) CONSTRUCTION.—Nothing in this section shall
2 be construed to prohibit an eligible partnership from using
3 grant funds to coordinate with the activities of eligible
4 partnerships in other States or on a regional basis through
5 Governors, State boards of education, State educational
6 agencies, State agencies responsible for early childhood
7 education, local educational agencies, or State agencies for
8 higher education.

9 "(h) SUPPLEMENT, NOT SUPPLANT.—Funds made
10 available under this section shall be used to supplement,
11 and not supplant, other Federal, State, and local funds
12 that would otherwise be expended to carry out activities
13 under this section.

14 **"SEC. 204. ADMINISTRATIVE PROVISIONS.**

15 "(a) DURATION; NUMBER OF AWARDS; PAY-
16 MENTS.—

17 "(1) DURATION.—

18 "(A) ELIGIBLE STATES.—Grants awarded
19 to eligible States under this part shall be
20 awarded for a period not to exceed 3 years.

21 "(B) ELIGIBLE PARTNERSHIPS.—Grants
22 awarded to eligible partnerships under this part
23 shall be awarded for a period of 5 years.

24 "(2) NUMBER OF AWARDS.—An eligible part-
25 nership may not receive more than 1 grant during

a 5-year period. Nothing in this title shall be construed to prohibit an individual member, that can demonstrate need, of an eligible partnership that receives a grant under this title from entering into another eligible partnership consisting of new members and receiving a grant with such other eligible partnership before the 5-year period described in the preceding sentence applicable to the eligible partnership with which the individual member has first partnered has expired.

"(3) PAYMENTS.—The Secretary shall make annual payments of grant funds awarded under this part.

"(b) PEER REVIEW.—

"(1) PANEL.—The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

"(2) PRIORITY.—In recommending applications to the Secretary for funding under this part, the panel shall—

"(A) with respect to grants under section 202, give priority to eligible States—

"(i) that have innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers to become highly qualified and have effective teaching skills;

"(ii) that have innovative efforts aimed at reducing the shortage of highly qualified general and special education teachers, including in low-income urban and rural areas and in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages); and

"(iii) whose awards promote an equitable geographic distribution of grants among rural and urban areas; and

"(B) with respect to grants under section 203, give priority—

"(i) to applications from broad-based eligible partnerships that involve businesses and community organizations; and

"(ii) to eligible partnerships so that the awards promote an equitable geo-

graphic distribution of grants among rural and urban areas.

"(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which applications shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out.

"(c) MATCHING REQUIREMENTS.—

"(1) STATE GRANTS.—Each eligible State receiving a grant under section 202 shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

"(2) PARTNERSHIP GRANTS.—Each eligible partnership receiving a grant under section 203 shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the amount of the grant for the first year of the grant, 35 percent of the amount of the grant for the second year of the grant, and 50 percent of the amount of the grant for each succeeding year of the grant.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible State or eligible partnership that receives a grant under this part may use not more than 2 percent of the grant funds for purposes of administering the grant.

"(e) ADDITIONAL ACTIVITIES.—The Secretary shall use funds repaid pursuant to section 202(e)(4)(A)(i)(II) or section 203(f)(5)(A)(i)(II) to carry out additional activities under section 202 or 203, respectively.

**"SEC. 205. ACCOUNTABILITY AND EVALUATION.**

"(a) STATE GRANT ACCOUNTABILITY REPORT.—An eligible State that receives a grant under section 202 shall submit an annual accountability report to the Secretary and the authorizing committees. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made progress in meeting the purposes of this part and substantial progress in meeting the following goals, as applicable:

"(1) STUDENT ACADEMIC ACHIEVEMENT.—Increasing student academic achievement for all students as defined by the eligible State.

"(2) RAISING STANDARDS.—Raising the State academic standards required to enter the teaching profession as a highly qualified teacher, and where applicable, as a fully competent early childhood educator.

"(3) INITIAL CERTIFICATION OR LICENSURE.—Improving the pass rates and scaled scores for initial State teacher certification or licensure, or increasing the numbers of qualified individuals being certified or licensed as teachers through alternative routes to State certification or licensure programs.

"(4) PERCENTAGE OF HIGHLY QUALIFIED TEACHERS.—Providing data on the progress of the State towards meeting the highly qualified teacher requirements under section 1119(a)(2) of the Elementary and Secondary Education Act of 1965.

"(5) DECREASING TEACHER SHORTAGES.—Decreasing shortages of—

"(A) highly qualified teachers in—

"(i) low-income urban and rural areas;

"(ii) high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(iii) special education; and

"(iv) high-need areas (such as special education, language instruction educational programs for limited English proficient

1 students, and early childhood education);
2 and
3 ''(B) fully competent early childhood edu-
4 cators.
5 ''(6) INCREASING OPPORTUNITIES FOR PROFES-
6 SIONAL DEVELOPMENT.—Increasing opportunities
7 for enhanced and ongoing professional development
8 that—
9 ''(A) improves the academic content knowl-
10 edge of teachers in the academic subject areas
11 in which the teachers are certified or licensed to
12 teach or in which the teachers are working to-
13 ward certification or licensure to teach; and
14 ''(B) promotes effective teaching skills.
15 ''(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each
16 eligible partnership submitting an application for a grant
17 under section 203 shall establish and include in such ap-
18 plication, an evaluation plan that includes strong perform-
19 ance objectives. The plan shall include objectives and
20 measures for increasing—
21 ''(1) student achievement for all students as
22 measured by the eligible partnership;
23 ''(2) teacher retention in the first 3 years of a
24 teacher's career;

"(3) improvement in the pass rates and scaled scores for initial State certification or licensure of teachers;

"(4) the percentage of highly qualified teachers hired by the high-need local educational agency participating in the eligible partnership; and

"(5) the percentage of—

"(A) highly qualified teachers among underrepresented groups, in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages), in high-need areas (such as special education, language instruction educational programs for limited English proficient students, and early childhood education), and in high-need schools;

"(B) elementary school, middle school, and secondary school classes taught by teachers who are highly qualified;

"(C) early childhood education program classes taught by providers who are fully competent; and

"(D) highly qualified special education teachers.

"(c) REVOCATION OF GRANT.—

"(1) ELIGIBLE STATES.—If the Secretary determines that an eligible State is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

"(2) ELIGIBLE PARTNERSHIPS.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

"(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the authorizing committees. The Secretary shall broadly disseminate—

"(1) successful practices developed by eligible States and eligible partnerships under this part; and

"(2) information regarding such practices that were found to be ineffective.

**"SEC. 206. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.**

"(a) INSTITUTIONAL AND PROGRAM REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

"(1) REPORT CARD.—Each institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this Act shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, both for traditional teacher preparation programs and alternative routes to State certification or licensure programs, the following information:

"(A) PASS RATES AND SCALED SCORES.—For the most recent year for which the information is available for those students who took the assessments and are enrolled in the traditional teacher preparation program or alternative routes to State certification or licensure program, and for those who have taken the assessments and have completed the traditional teacher preparation program or alternative routes to State certification or licensure program during

the 2-year period preceding such year, for each of the assessments used for teacher certification or licensure by the State in which the program is located—

"(i) the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

"(ii) the percentage of all such students who passed each such assessment;

"(iii) the percentage of students taking an assessment who completed the teacher preparation program after enrolling in the program, which shall be made available widely and publicly by the State;

"(iv) the average scaled score for all students who took each such assessment;

"(v) a comparison of the program's pass rates with the average pass rates for programs in the State; and

"(vi) a comparison of the program's average scaled scores with the average scaled scores for programs in the State.

"(B) PROGRAM INFORMATION.—The criteria for admission into the program, the num-

ber of students in the program (disaggregated by race and gender), the average number of hours of supervised clinical experience required for those in the program, the number of full-time equivalent faculty and students in the supervised clinical experience, and the total number of students who have been certified or licensed as teachers, disaggregated by subject and area of certification or licensure.

"(C) STATEMENT.—In States that require approval or accreditation of teacher preparation programs, a statement of whether the institution's program is so approved or accredited, and by whom.

"(D) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 207(a).

"(E) USE OF TECHNOLOGY.—A description of the activities that prepare teachers to effectively integrate technology into curricula and instruction and effectively use technology to collect, manage, and analyze data in order to improve teaching, learning, and decision making

for the purpose of increasing student academic achievement.

"(2) REPORT.—Each eligible partnership receiving a grant under section 203 shall report annually on the progress of the eligible partnership toward meeting the purposes of this part and the objectives and measures described in section 205(b).

"(3) FINES.—The Secretary may impose a fine not to exceed $25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

"(4) SPECIAL RULE.—In the case of an institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and has fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information, as required under paragraph (1)(A), with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a 3-year period.

"(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—

"(1) IN GENERAL.—Each State that receives funds under this Act shall provide to the Secretary, annually, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, a State report card on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, which shall include not less than the following:

"(A) A description of reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

"(B) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular academic subject areas or in particular grades within the State.

"(C) A description of how the assessments and requirements described in subparagraph (A) are aligned with the State's challenging academic content standards required under section 1111(b)(1) of the Elementary and Sec-

ondary Education Act of 1965 and State early learning standards for early childhood education programs.

"(D) For each of the assessments used by the State for teacher certification or licensure—

"(i) for each institution of higher education located in the State and each entity located in the State that offers an alternative route for teacher certification or licensure, the percentage of students at such institution or entity who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

"(ii) the percentage of all such students at all such institutions taking the assessment who pass such assessment; and

"(iii) the percentage of students taking an assessment who completed the teacher preparation program after enrolling in the program, which shall be made available widely and publicly by the State.

"(E) A description of alternative routes to State certification or licensure in the State (including any such routes operated by entities

that are not institutions of higher education), if any, including, for each of the assessments used by the State for teacher certification or licensure—

"(i) the percentage of individuals participating in such routes, or who have completed such routes during the 2-year period preceding the date of the determination, who passed each such assessment; and

"(ii) the average scaled score of individuals participating in such routes, or who have completed such routes during the period preceding the date of the determination, who took each such assessment.

"(F) A description of the State's criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State. Such criteria shall include indicators of the academic content knowledge and teaching skills of students enrolled in such programs.

"(G) For each teacher preparation program in the State, the criteria for admission into the program, the number of students in the program, disaggregated by race and gender (ex-

cept that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student), the average number of hours of supervised clinical experience required for those in the program, and the number of full-time equivalent faculty, adjunct faculty, and students in supervised clinical experience.

"(H) For the State as a whole, and for each teacher preparation program in the State, the number of teachers prepared, in the aggregate and reported separately by—

"(i) area of certification or licensure;

"(ii) academic major; and

"(iii) subject area for which the teacher has been prepared to teach.

"(I) Using the data generated under subparagraphs (G) and (H), a description of the extent to which teacher preparation programs are helping to address shortages of highly qualified teachers, by area of certification or licensure, subject, and specialty, in the State's pub-

lic schools, including those areas described in section 205(a)(5).

"(J) A description of the activities that prepare teachers to effectively integrate technology into curricula and instruction and effectively use technology to collect, manage, and analyze data in order to improve teaching, learning, and decision making for the purpose of increasing student academic achievement.

"(2) PROHIBITION AGAINST CREATING A NATIONAL LIST.—The Secretary shall not create a national list or ranking of States, institutions, or schools using the scaled scores provided under this subsection.

"(c) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

"(1) REPORT CARD.—The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A) through (J) of subsection (b)(1). Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report

shall be so provided, published, and made available annually.

"(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit a report to Congress that contains the following:

"(A) A comparison of States' efforts to improve the quality of the current and future teaching force.

"(B) A comparison of eligible partnerships' efforts to improve the quality of the current and future teaching force.

"(C) The national mean and median scaled scores and pass rate on any standardized test that is used in more than 1 State for teacher certification or licensure.

"(3) SPECIAL RULE.—In the case of a teacher preparation program with fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information, and make publicly available, with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a 3-year period.

"(d) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and

published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

**"SEC. 207. STATE FUNCTIONS.**

"(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State shall have in place a procedure to identify and assist, through the provision of technical assistance, low-performing programs of teacher preparation. Such State shall provide the Secretary an annual list of such low-performing teacher preparation programs that includes an identification of those programs at risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based on information collected pursuant to this part. Such assessment shall be described in the report under section 206(b).

"(b) TERMINATION OF ELIGIBILITY.—Any program of teacher preparation from which the State has withdrawn the State's approval, or terminated the State's financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

"(1) shall be ineligible for any funding for professional development activities awarded by the Department;

"(2) shall not be permitted to accept or enroll any student that receives aid under title IV in the institution's teacher preparation program; and

"(3) shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval.

"(c) NEGOTIATED RULEMAKING.—If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

"(d) APPLICATION OF THE REQUIREMENTS.—The requirements of this section shall apply to both traditional teacher preparation programs and alternative routes to State certification and licensure programs.

**"SEC. 208. GENERAL PROVISIONS.**

"(a) METHODS.—In complying with sections 206 and 207, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods

in reporting and that the reporting methods do not allow identification of individuals.

"(b) SPECIAL RULE.—For each State that does not use content assessments as a means of ensuring that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year, as required under section 1119 of the Elementary and Secondary Education Act of 1965, and that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school is highly qualified by such deadline, as required under section 612(a)(14)(C) of the Individuals with Disabilities Education Act,—

"(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

"(2) notwithstanding any other provision of this part, the Secretary shall use such data to carry out requirements of this part related to assessments, pass rates, and scaled scores.

"(c) LIMITATIONS.—

"(1) FEDERAL CONTROL PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this title.

"(2) NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.—Nothing in this title shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

"(3) NATIONAL SYSTEM OF TEACHER CERTIFICATION OR LICENSURE PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification or licensure.

"(d) RELEASE OF INFORMATION TO TEACHER PREPARATION PROGRAMS.—

"(1) IN GENERAL.—For the purpose of improving teacher preparation programs, a State edu-

cational agency shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

"(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

"(B) is possessed, controlled, or accessible by the State educational agency.

"(2) CONTENT OF INFORMATION.—The information described in paragraph (1)—

"(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State educational agency with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

"(B) may include—

"(i) kindergarten through grade 12 academic achievement and demographic data, without revealing personally identifiable information about an individual stu-

dent, for students who have been taught by graduates of the teacher preparation program; and

"(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

**"SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years, of which—

"(1) 50 percent shall be available for each fiscal year to award grants under section 202; and

"(2) 50 percent shall be available for each fiscal year to award grants under section 203.

"(b) SPECIAL RULE.—If the Secretary determines that there is an insufficient number of meritorious applications for grants under section 202 or 203 to justify awarding the full amount described in paragraph (1) or (2) of subsection (a), respectively, the Secretary may, after funding the meritorious applications, use the remaining funds for grants under the other such section.".

## CHAPTER 4—INSTITUTIONAL AID

**SEC. 7341. PROGRAM PURPOSE.**

Section 311 (20 U.S.C. 1057) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''351'' and inserting ''391''; and

(B) in paragraph (3)(F), by inserting '', including services that will assist in the education of special populations'' before the period; and

(2) in subsection (c)—

(A) in paragraph (6), by inserting '', including innovative, customized, remedial education and English language instruction courses designed to help retain students and move the students rapidly into core courses and through program completion'' before the period;

(B) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively;

(C) by inserting after paragraph (6) the following:

''(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.''; and

(D) in the matter preceding subparagraph (A) of paragraph (13) (as redesignated by sub-

paragraph (B)), by striking ''subsection (c)'' and inserting ''subsection (b) and section 391''.

**SEC. 7342. DEFINITIONS; ELIGIBILITY.**

Section 312 (20 U.S.C. 1058) is amended—

(1) in subsection (b)(1)(A), by striking ''subsection (c) of this section'' and inserting ''subsection (d)''; and

(2) in subsection (d)(2), by striking ''subdivision'' and inserting ''paragraph''.

**SEC. 7343. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

Section 316 (20 U.S.C. 1059c) is amended—

(1) by striking subsection (b)(3) and inserting the following:

''(3) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' means an institution that—

''(A) qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Assistance Act of 1978 (25 U.S.C. 640a note); or

''(B) is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).'';

(2) in subsection (c)(2)—

(A) in subparagraph (B), by inserting before the semicolon at the end the following: ''and the acquisition of real property adjacent to the campus of the institution'';

(B) by redesignating subparagraphs (G), (H), (I), (J), (K), and (L) as subparagraphs (H), (I), (J), (K), (L), and (N), respectively;

(C) by inserting after subparagraph (F) the following:

''(G) education or counseling services designed to improve the financial literacy and economic literacy of students or parents of students;'';

(D) in subparagraph (L) (as redesignated by subparagraph (B)), by striking ''and'' after the semicolon;

(E) by inserting after subparagraph (L) (as redesignated by subparagraph (B)) the following:

''(M) developing or improving facilities for Internet use or other distance learning academic instruction capabilities; and''; and

(F) in subparagraph (N) (as redesignated by subparagraph (B)), by striking ''subpara-

graphs (A) through (K)'' and inserting ''subparagraphs (A) through (M)''; and

(3) by striking subsection (d) and inserting the following:

''(d) APPLICATION, PLAN, AND ALLOCATION.—

''(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

''(2) APPLICATION.—

''(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may reasonably require.

''(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants.

''(3) ALLOCATIONS TO INSTITUTIONS.—

''(A) CONSTRUCTION GRANTS.—

''(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary may reserve 30 percent for the purpose of awarding 1-year

grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

"(ii) PREFERENCE.—In providing grants under clause (i), the Secretary shall give preference to eligible institutions that have not yet received an award under this section.

"(B) ALLOTMENT OF REMAINING FUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

"(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities on a pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities; and

"(II) the remaining 40 percent shall be distributed in equal shares to the eligible Tribal Colleges and Universities.

"(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

"(4) SPECIAL RULES.—

"(A) CONCURRENT FUNDING.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.".

**SEC. 7344. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

Section 317(c)(2) (20 U.S.C. 1059d(c)(2)) is amended—

(1) in subparagraph (G), by striking "and" after the semicolon;

(2) in subparagraph (H), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(I) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.".

**SEC. 7345. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.**

(a) GRANT PROGRAM AUTHORIZED.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

**"SEC. 318. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.**

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans.

"(b) DEFINITIONS.—In this section:

"(1) NATIVE AMERICAN.—The term 'Native American' means an individual who is of a tribe, people, or culture that is indigenous to the United States.

"(2) NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTION.—The term 'Native American-serving, nontribal institution' means an institution of higher education that, at the time of application—

"(A) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

"(B) is not a Tribal College or University (as defined in section 316).

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Native American-serving, nontribal institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

"(A) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

"(D) curriculum development and academic instruction;

"(E) the purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) the joint use of facilities such as laboratories and libraries; and

"(H) academic tutoring and counseling programs and student support services.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—A Native American-serving, nontribal institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Native American-serving, nontribal institution, along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—

"(A) PERMISSION TO SUBMIT APPLICATIONS.—Any institution that is determined by the Secretary to be a Native American-serving, nontribal institution may submit an application for assistance under this section to the Secretary.

"(B) SIMPLIFIED AND STREAMLINED FORMAT.—The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for applications under this section that takes into account the limited number of institutions that are eligible for assistance under this section.

"(C) CONTENT.—An application submitted under subparagraph (A) shall include—

"(i) a 5-year plan for improving the assistance provided by the Native American-serving, nontribal institution to Native Americans; and

"(ii) such other information and assurances as the Secretary may require.

"(3) SPECIAL RULES.—

"(A) ELIGIBILITY.—No Native American-serving, nontribal institution that receives funds

under this section shall concurrently receive funds under other provisions of this part or part B.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

"(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 399 (20 U.S.C. 1068h) is amended by adding at the end the following:

"(c) MINIMUM GRANT AMOUNT.—The minimum amount of a grant under this title shall be $200,000.".

**SEC. 7346. PART B DEFINITIONS.**

Section 322(4) (20 U.S.C. 1061(4)) is amended by inserting ", in consultation with the Commissioner for Education Statistics" before "and the Commissioner".

**SEC. 7347. GRANTS TO INSTITUTIONS.**

Section 323(a) (20 U.S.C. 1062(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "360(a)(2)" and inserting "399(a)(2)";

(2) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively; and

(3) by inserting after paragraph (6) the following:

''(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.''.

**SEC. 7348. ALLOTMENTS TO INSTITUTIONS.**

Section 324 (20 U.S.C. 1063) is amended by adding at the end the following:

''(h) SPECIAL RULE ON ELIGIBILITY.—Notwithstanding any other provision of this section, a part B institution shall not receive an allotment under this section unless the part B institution provides, on an annual basis, data indicating that the part B institution—

''(1) enrolled Federal Pell Grant recipients in the preceding academic year;

''(2) in the preceding academic year, has graduated students from a program of academic study that is licensed or accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part H of title IV where appropriate; and

"(3) where appropriate, has graduated students who, within the past 5 years, enrolled in graduate or professional school.".

**SEC. 7349. PROFESSIONAL OR GRADUATE INSTITUTIONS.**

Section 326 (20 U.S.C. 1063b) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by inserting ", and for the acquisition and development of real property that is adjacent to the campus for such construction, maintenance, renovation, or improvement" after "services";

(B) by redesignating paragraphs (5) through (7) as paragraphs (7) through (9), respectively;

(C) by inserting after paragraph (4) the following:

"(5) tutoring, counseling, and student service programs designed to improve academic success;

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents;";

(D) in paragraph (7) (as redesignated by subparagraph (B)), by striking "establish or improve" and inserting "establishing or improving";

(E) in paragraph (8) (as redesignated by subparagraph (B))—

(i) by striking ''assist'' and inserting ''assisting''; and

(ii) by striking ''and'' after the semicolon;

(F) in paragraph (9) (as redesignated by subparagraph (B)), by striking the period and inserting ''; and''; and

(G) by adding at the end the following:

''(10) other activities proposed in the application submitted under subsection (d) that—

''(A) contribute to carrying out the purposes of this part; and

''(B) are approved by the Secretary as part of the review and acceptance of such application.'';

(2) in subsection (e)—

(A) in paragraph (1)—

(i) by inserting a colon after ''the following'';

(ii) in subparagraph (Q), by striking ''and'' at the end;

(iii) in subparagraph (R), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(S) Alabama State University qualified graduate program;

''(T) Coppin State University qualified graduate program; and

''(U) Prairie View A & M University qualified graduate program.'';

(B) in paragraph (2), by inserting ''in law or'' after ''instruction''; and

(C) in paragraph (3)—

(i) by striking ''1998'' and inserting ''2006''; and

(ii) by striking ''(Q) and (R)'' and inserting ''(S), (T), and (U)'';

(3) in subsection (f)—

(A) in paragraph (1), by striking ''(P)'' and inserting ''(R)''; and

(B) in paragraph (3)—

(i) by striking subparagraphs (A) and (B) and inserting the following:

''(A) The amount of non-Federal funds for the fiscal year for which the determination is made that the institution or program listed in subsection (e)—

"(i) allocates from institutional resources;

"(ii) secures from non-Federal sources, including amounts appropriated by the State and amounts from the private sector; and

"(iii) will utilize to match Federal funds awarded for the fiscal year for which the determination is made under this section to the institution or program.

"(B) The number of students enrolled in the qualified graduate programs of the eligible institution or program, for which the institution or program received and allocated funding under this section in the preceding year.";

(ii) in subparagraph (C), by striking "(or the equivalent) enrolled in the eligible professional or graduate school" and all that follows through the period and inserting "enrolled in the qualified programs or institutions listed in paragraph (1).";

(iii) in subparagraph (D)—

(I) by striking "students" and inserting "Black American students or minority students"; and

(II) by striking ''institution'' and inserting ''institution or program''; and

(iv) by striking subparagraph (E) and inserting the following:

''(E) The percentage that the total number of Black American students and minority students who receive their first professional, master's, or doctoral degrees from the institution or program in the academic year preceding the academic year for which the determination is made, represents of the total number of Black American students and minority students in the United States who receive their first professional, master's, or doctoral degrees in the professions or disciplines related to the course of study at such institution or program, respectively, in the preceding academic year.''; and

(4) in subsection (g), by striking ''1998'' and inserting ''2006''.

**SEC. 7350. AUTHORIZATION OF APPROPRIATIONS.**

Subsection (a) of section 399 (20 U.S.C. 1068h) is amended to read as follows:

''(a) AUTHORIZATIONS.—

"(1) PART A.—(A) There are authorized to be appropriated to carry out part A (other than section 316) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 316 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(C) There are authorized to be appropriated to carry out section 317 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(D) There are authorized to be appropriated to carry out section 318 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(3) PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(7), but including section 347) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 345(7) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(5) PART E.—There are authorized to be appropriated to carry out part E such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

**SEC. 7351. TECHNICAL CORRECTIONS.**

Title III (20 U.S.C. 1051 et seq.) is further amended—

(1) in section 342(5)(C) (20 U.S.C. 1066a(5)(C)), by striking ",," and inserting ",";

(2) in section 343(e) (20 U.S.C. 1066b(e)), by inserting "SALE OF QUALIFIED BONDS.—" before "Notwithstanding";

(3) in the matter preceding clause (i) of section 365(9)(A) (20 U.S.C. 1067k(9)(A)), by striking ''support'' and inserting ''supports'';

(4) in section 391(b)(7)(E) (20 U.S.C. 1068(b)(7)(E)), by striking ''subparagraph (E)'' and inserting ''subparagraph (D)'';

(5) in the matter preceding subparagraph (A) of section 392(b)(2) (20 U.S.C. 1068a(b)(2)), by striking ''eligible institutions under part A institutions'' and inserting ''eligible institutions under part A''; and

(6) in the matter preceding paragraph (1) of section 396 (20 U.S.C. 1068e), by striking ''360'' and inserting ''399''.

## CHAPTER 5—STUDENT ASSISTANCE

### Subchapter A—Grants to Students in Attendance at Institutions of Higher Education

**SEC. 7361. FEDERAL PELL GRANTS.**

Section 401 (20 U.S.C. 1070a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking ''2004'' and inserting ''2012''; and

(B) in the second sentence, by striking ''‚,'' and inserting ''‚'';

(2) in subsection (b)—

(A) by striking paragraph (2)(A) and inserting the following:

"(2)(A) the amount of the Federal Pell Grant for a student eligible under this part shall be—

"(i) $5,100 for academic year 2006–2007;

"(ii) $5,400 for academic year 2007–2008;

"(iii) $5,700 for academic year 2008–2009;

"(iv) $6,000 for academic year 2009–2010; and

"(v) $6,300 for academic year 2010–2011,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.";

(B) by striking paragraph (3);

(C) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively;

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking "$400, except" and all that follows through the period and inserting "10 percent of the maximum basic grant level specified in the appropriate Appropriation Act for such academic year, except that a student who is eligible for a Federal Pell Grant in an amount that is equal to or greater than 5 percent of such level but less than 10

percent of such level shall be awarded a Federal Pell grant in the amount of 10 percent of such level.''; and

(E) by striking paragraph (5) (as redesignated by subparagraph (C)) and inserting the following:

''(5) In the case of a student who is enrolled, on at least a half-time basis and for a period of more than 1 academic year in a 2-year or 4-year program of instruction for which an institution of higher education awards an associate or baccalaureate degree, the Secretary shall allow such student to receive not more than 2 Federal Pell Grants during a single award year to permit such student to accelerate the student's progress toward a degree by attending additional sessions. In the case of a student receiving more than 1 Federal Pell Grant in a single award year, the total amount of Federal Pell Grants awarded to such student for the award year may exceed the maximum basic grant level specified in the appropriate Appropriation Act for such award year.''; and

(3) in subsection (c), by adding at the end the following:

''(5) The period of time during which a student may receive Federal Pell Grants shall not exceed 18 semesters,

or an equivalent period of time as determined by the Secretary pursuant to regulations, which period shall—

"(A) be determined without regard to whether the student is enrolled on a full-time basis during any portion of the period of time; and

"(B) include any period of time for which the student received a Federal Pell Grant prior to the date of enactment of the Higher Education Amendments of 2005.".

**SEC. 7362. FEDERAL TRIO PROGRAMS.**

(a) PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—Section 402A (20 U.S.C. 1070a–11) is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "4" and inserting "5";

(ii) by striking subparagraph (A); and

(iii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) by striking paragraph (3) and inserting the following:

"(3) MINIMUM GRANTS.—Unless the institution or agency requests a smaller amount, an individual grant authorized under this chapter shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 402G shall be awarded in an amount that is not less than $170,000.";

(2) in subsection (c)—

(A) in paragraph (2), by striking "service delivery" and inserting "high quality service delivery, as determined under subsection (f),";

(B) in paragraph (3)(B), by striking "is not required to" and inserting "shall not"; and

(C) in paragraph (5), by striking "campuses" and inserting "different campuses";

(3) in subsection (e), by striking "(g)(2)" each place the term occurs and inserting "(h)(4)";

(4) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(5) by inserting after subsection (e) the following:

"(f) OUTCOME CRITERIA.—

"(1) IN GENERAL.—The Secretary, by regulation, shall establish outcome criteria for measuring, annually and for longer periods, the quality and ef-

fectiveness of programs authorized under this chapter.

"(2) USE FOR PRIOR EXPERIENCE DETERMINATION.—The outcome criteria under paragraph (1) shall be used to evaluate the programs provided by a recipient of a grant under this chapter, and the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required in subsection (c)(2), based on the outcome criteria.

"(3) CONSIDERATION OF RELEVANT DATA.—The outcome criteria under this subsection shall take into account data pertaining to secondary school completion, postsecondary education enrollment, and postsecondary education completion for low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

"(4) CONTENTS OF OUTCOME CRITERIA.—The outcome criteria shall include the following:

"(A) For programs authorized under section 402B, whether the eligible entity met or exceeded the entity's objectives established in

the entity's application for such program regarding—

"(i) the delivery of service to a total number of students served by the program;

"(ii) the continued secondary school enrollment of such students;

"(iii) the graduation of such students from secondary school; and

"(iv) the enrollment of such students in an institution of higher education.

"(B) For programs authorized under section 402C, whether the eligible entity met or exceeded its objectives for such program regarding—

"(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

"(ii) such students' school performance, as measured by the grade point average, or its equivalent;

"(iii) such students' academic performance, as measured by standardized tests, including tests required by the students' State;

"(iv) the retention in, and graduation from, secondary school of such students; and

"(v) the enrollment of such students in an institution of higher education.

"(C) For programs authorized under section 402D—

"(i) whether the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

"(ii)(I) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding such students' completion of the degree programs in which such students were enrolled; or

"(II) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding—

"(aa) the completion of a degree or certificate by such students; and

"(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

"(iii) whether the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

"(iv) whether the applicant met or exceeded the entity's objectives regarding such students remaining in good academic standing.

"(D) For programs authorized under section 402E, whether the entity met or exceeded the entity's objectives for such program regarding—

"(i) the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period;

"(ii) the provision of appropriate scholarly and research activities for the students served by the program;

"(iii) the acceptance and enrollment of such students in graduate programs; and

"(iv) the attainment of doctoral degrees by former program participants.

"(E) For programs authorized under section 402F, whether the entity met or exceeded the entity's objectives for such program regarding—

"(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

"(ii) the enrollment of secondary school graduates who were served by the program in programs of postsecondary education;

"(iii) the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

"(iv) the provision of assistance to students served by the program in com-

pleting financial aid applications and college admission applications.''; (6) in subsection (g) (as redesignated by paragraph (4))—

(A) in the first sentence, by striking ''$700,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''; and

(B) by striking the fourth sentence; and

(7) in subsection (h) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) through (4) as paragraphs (3) through (6), respectively;

(B) by inserting before paragraph (3) (as redesignated by subparagraph (A)) the following:

''(1) DIFFERENT CAMPUS.—The term 'different campus' means a site of an institution of higher education that—

''(A) is geographically apart from the main campus of the institution;

''(B) is permanent in nature; and

"(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

"(2) DIFFERENT POPULATION.—The term 'different population' means a group of individuals, with respect to whom an eligible entity desires to serve through an application for a grant under this chapter, that—

"(A) is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or

"(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this chapter to serve, has distinct needs for specialized services.";

(C) in paragraph (5) (as redesignated by subparagraph (A))—

(i) in subparagraph (A), by striking "or" after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 180 days."; and

(D) in paragraph (6), by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subparagraph (A), (B), or (C) of paragraph (5)".

(b) TALENT SEARCH.—Section 402B (20 U.S.C. 1070a–12) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "to identify qualified youths with potential for education at the postsecondary level and to encourage such youths" and inserting "to encourage eligible youths";

(B) in paragraph (2), by inserting ", and facilitate the application for," after "the availability of"; and

(C) in paragraph (3), by striking ", but who have the ability to complete such programs, to reenter" and inserting "to enter or reenter, and complete";

(2) by redesignating subsection (c) as subsection (d);

(3) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

"(1) academic tutoring, or connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

"(3) assistance in preparing for college entrance examinations and completing college admission applications;

"(4)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(5) guidance on and assistance in—

"(A) secondary school reentry;

"(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

"(C) entry into general educational development (GED) programs; or

"(D) postsecondary education; and

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students or their parents, including financial planning for postsecondary education.

"(c) PERMISSIBLE SERVICES.—Any project assisted under this section may provide services such as—

"(1) personal and career counseling or activities;

"(2) information and activities designed to acquaint youths with the range of career options available to the youths;

"(3) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

"(4) workshops and counseling for families of students served;

"(5) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

"(6) programs and activities as described in subsection (b) or paragraphs (1) through (5) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or students who are in foster care or are aging out of the foster care system."; and

(4) in the matter preceding paragraph (1) of subsection (d) (as redesignated by paragraph (2)), by striking "talent search projects under this chapter" and inserting "projects under this section".

(c) UPWARD BOUND.—Section 402C (20 U.S.C. 1070a–13) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

"(1) academic tutoring to enable students to complete secondary or postsecondary courses, which

may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

''(2) advice and assistance in secondary and postsecondary course selection;

''(3) assistance in preparing for college entrance examinations and completing college admission applications;

''(4)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

''(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

''(5) guidance on and assistance in—

''(A) secondary school reentry;

''(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

''(C) entry into general educational development (GED) programs; or

''(D) postsecondary education; and

''(6) education or counseling services designed to improve the financial literacy and economic lit-

eracy of students, including financial planning for postsecondary education.'';

(2) in subsection (c)—

(A) in the subsection heading, by striking ''REQUIRED SERVICES'' and inserting ''ADDITIONAL REQUIRED SERVICES FOR MULTIPLE-YEAR GRANT RECIPIENTS''; and

(B) by striking ''upward bound project assisted under this chapter'' and inserting ''project assisted under this section'';

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(4) by inserting after subsection (c) the following:

''(d) PERMISSIBLE SERVICES.—Any project assisted under this section may provide such services as—

''(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

''(2) information, activities and instruction designed to acquaint youths participating in the project with the range of career options available to the youths;

''(3) on-campus residential programs;

"(4) mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

"(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

"(6) special services to enable veterans to make the transition to postsecondary education; and

"(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or students who are in foster care or are aging out of the foster care system.";

(5) in the matter preceding paragraph (1) of subsection (e) (as redesignated by paragraph (3)), by striking "upward bound projects under this chapter" and inserting "projects under this section"; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking ''during June, July, and August'' each place the term occurs and inserting ''during the summer school recess, for a period not to exceed 3 months''; and

(B) by striking ''(b)(10)'' and inserting ''(d)(5)''.

(d) STUDENT SUPPORT SERVICES.—Section 402D (20 U.S.C. 1070a–14) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) by striking paragraph (3) and inserting the following:

''(3) to foster an institutional climate supportive of the success of low-income and first generation college students, students with disabilities, students who are limited English proficient, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), and students who are in foster care or are aging out of the foster care system.''; and

(C) by adding at the end the following:

''(4) to improve the financial literacy and economic literacy of students, including—

"(A) basic personal income, household money management, and financial planning skills; and

"(B) basic economic decisionmaking skills.";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e);

(3) by striking subsection (b) and inserting the following:

"(b) REQUIRED SERVICES.—A project assisted under this section shall provide—

"(1) academic tutoring to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in postsecondary course selection;

"(3)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

"(5) activities designed to assist students participating in the project in securing college admission and financial assistance for enrollment in graduate and professional programs; and

"(6) activities designed to assist students enrolled in 2-year institutions of higher education in securing admission and financial assistance for enrollment in a 4-year program of postsecondary education.

"(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

"(1) consistent, individualized personal, career, and academic counseling, provided by assigned counselors;

"(2) information, activities, and instruction designed to acquaint youths participating in the project with the range of career options available to the students;

"(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(4) activities designed to acquaint students participating in the project with the range of career options available to the students;

"(5) mentoring programs involving faculty or upper class students, or a combination thereof;

"(6) securing temporary housing during breaks in the academic year for students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths and students who are in foster care or are aging out of the foster care system; and

"(7) programs and activities as described in subsection (b) or paragraphs (1) through (5) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths, or students who are in foster care or are aging out of the foster care system.";

(4) in subsection (d)(1) (as redesignated by paragraph (2)), by striking ''subsection (b)'' and inserting ''subsection (c)''; and

(5) in the matter preceding paragraph (1) of subsection (e) (as redesignated by paragraph (2)), by striking ''student support services projects under this chapter'' and inserting ''projects under this section''.

(e) POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.—Section 402E (20 U.S.C. 1070a–15) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting ''REQUIRED'' before ''SERVICES'';

(B) in the matter preceding paragraph (1), by striking ''A postbaccalaureate achievement project assisted under this section may provide services such as—'' and inserting ''A project assisted under this section shall provide—'';

(C) in paragraph (5), by inserting ''and'' after the semicolon;

(D) in paragraph (6), by striking the semicolon and inserting a period; and

(E) by striking paragraphs (7) and (8);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

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

''(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

''(1) education or counseling services designed to improve the financial literacy and economic literacy of students or their parents, including financial planning for postsecondary education;

''(2) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

''(3) exposure to cultural events and academic programs not usually available to disadvantaged students.'';

(4) in the matter preceding paragraph (1) of subsection (d) (as redesignated by paragraph (2)), by striking ''postbaccalaureate achievement'';

(5) in the matter preceding paragraph (1) of subsection (f) (as redesignated by paragraph (2)), by striking ''postbaccalaureate achievement project'' and inserting ''project under this section''; and

(6) in subsection (g) (as redesignated by paragraph (2))—

(A) by striking ''402A(f)'' and inserting ''402A(g)''; and

(B) by striking ''1993 through 1997'' and inserting ''2006 through 2010''.

(f) EDUCATIONAL OPPORTUNITY CENTERS.—Section 402F (20 U.S.C. 1070a–16) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) to improve the financial literacy and economic literacy of students, including—

''(A) basic personal income, household money management, and financial planning skills; and

''(B) basic economic decisionmaking skills.''; and

(2) in subsection (b)—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively;

(B) by inserting after paragraph (4) the following:

"(5) education or counseling services designed to improve the financial literacy and economic literacy of students;";

(C) by striking paragraph (7) (as redesignated by subparagraph (A)) and inserting the following:

"(7) individualized personal, career, and academic counseling;"; and

(D) by striking paragraph (11) (as redesignated by subparagraph (A)) and inserting the following:

"(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students with disabilities, or students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or programs and activities for students who are in foster care or are aging out of the foster care system.".

(g) STAFF DEVELOPMENT ACTIVITIES.—Section 402G(b)(3) (20 U.S.C. 1070a–17(b)(3)) is amended by inserting ", including strategies for recruiting and serving students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento

Homeless Assistance Act (42 U.S.C. 11434a)) and students who are in foster care or are aging out of the foster care system'' before the period at the end.

(h) REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION.—Section 402H (20 U.S.C. 1070a–18) is amended—

(1) by striking the section heading and inserting ''**REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION**.'';

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

''(a) REPORT TO CONGRESS.—At least once every 2-year period, the Secretary shall prepare and submit to Congress a report on the outcomes achieved by the programs authorized under this chapter. Such report shall include a statement for the preceding fiscal year specifying—

''(1) the number of grants awarded during each fiscal year, and the number of individuals served by the programs carried out under such grants;

"(2) the number of entities that received grants during the fiscal year, including the number of entities that—

"(A) received a grant to carry out a program under this chapter for the fiscal year; and

"(B) had not received funding for that particular program during the previous grant cycle;

"(3) a comparison of the number and percentage of grant awards made to entities described in paragraph (2), with the number of such entities funded through discretionary grant competitions conducted by the Secretary under this chapter in the 3 grant cycles preceding the fiscal year;

"(4) information on the number of individuals served in each program authorized under this chapter; and

"(5) information on the outcomes achieved by each program authorized under this chapter, including the outcome criteria described in section 402A(f) for each program.".

**SEC. 7363. GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS.**

(a) EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.—Section 404A (20 U.S.C. 1070a–21) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that encourages eligible entities to provide support to eligible low-income students to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

''(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to middle school and secondary school students to reduce—

''(A) the risk of such students dropping out of school; or

''(B) the need for remedial education for such students at the postsecondary level; and

''(2) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.'';

(2) by striking subsection (b)(2)(A) and inserting the following:

"(A) give priority to eligible entities that have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies;"; and

(3) by striking subsection (c)(2) and inserting the following:

"(2) a partnership—

"(A) consisting of—

"(i) 1 or more local educational agencies; and

"(ii) 1 or more degree granting institutions of higher education; and

"(B) which may include not less than 2 other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.".

(b) REQUIREMENTS.—Section 404B (20 U.S.C. 1070a–22) is amended—

(1) by striking subsection (a) and inserting the following:—

"(a) FUNDING RULES.—

"(1) DISTRIBUTION.—In awarding grants from the amount appropriated under section 404G for a fiscal year, the Secretary shall take into consideration—

"(A) the geographic distribution of such awards; and

"(B) the distribution of such awards between urban and rural applicants.

"(2) SPECIAL RULE.—The Secretary shall annually reevaluate the distribution of funds described in paragraph (1) based on number, quality, and promise of the applications.";

(2) by striking subsections (b), (e), and (f);

(3) by redesignating subsections (c), (d), and (g) as subsections (b), (c), and (d), respectively; and

(4) by adding at the end the following:

"(e) SUPPLEMENT, NOT SUPPLANT.—Grant funds awarded under this chapter shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this chapter.".

(c) APPLICATION.—Section 404C (20 U.S.C. 1070a–23) is amended—

(1) in the section heading, by striking "**ELIGIBLE ENTITY PLANS**" and inserting "**APPLICATIONS**";

(2) in subsection (a)—

(A) in the subsection heading, by striking "PLAN" and inserting "APPLICATION";

(B) in paragraph (1)—

(i) by striking "a plan" and inserting "an application"; and

(ii) by striking the second sentence; and

(C) by striking paragraph (2) and inserting the following:

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require. Each such application shall, at a minimum—

"(A) describe the activities for which assistance under this chapter is sought, including how the eligible entity will carry out the required activities described in section 404D(a);

"(B) describe how the eligible agency will meet the requirements of section 404E;

"(C) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D;

"(D) ensure that activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages or employment benefits;

"(E) describe, in the case of an eligible entity described in section 404A(c)(2), how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d), and how the eligible entity will serve the cohort through grade 12, including—

"(i) how vacancies in the program under this chapter will be filled; and

"(ii) how the eligible entity will serve students attending different secondary schools;

"(F) describe how the eligible entity will coordinate programs with other existing Federal, State, or local programs to avoid duplica-

tion and maximize the number of students served;

"(G) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter; and

"(H) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit.";

(3) in the matter preceding subparagraph (A) of subsection (b)(1)—

(A) by striking "a plan" and inserting "an application"; and

(B) by striking "such plan" and inserting "such application"; and

(4) in subsection (c)(1), by striking the semicolon at the end and inserting "including—

"(A) the amount contributed to a student scholarship fund established under section 404E; and

"(B) the amount of the costs of administering the scholarship program under section 404E;".

(d) ACTIVITIES.—Section 404D (20 U.S.C. 1070a–24) is amended to read as follows:

**"SEC. 404D. ACTIVITIES.**

"(a) REQUIRED ACTIVITIES.—Each eligible entity receiving a grant under this chapter shall carry out the following:

"(1) Provide information regarding financial aid for postsecondary education to participating students in the cohort described in subsection 404B(d)(1)(A).

"(2) Encourage student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

"(3) Support activities designed to improve the number of participating students who—

"(A) obtain a secondary school diploma; and

"(B) complete applications for and enroll in a program of postsecondary education.

"(4) In the case of an eligible entity described in section 404A(c)(1), provide for the scholarships described in section 404E.

"(b) OPTIONAL ACTIVITIES FOR STATES AND PARTNERSHIPS.—An eligible entity that receives a grant under

this chapter may use grant funds to carry out 1 or more of the following activities:

"(1) Providing tutoring and supporting mentors, including adults or former participants of a program under this chapter, for eligible students.

"(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

"(3) Providing supportive services to eligible students.

"(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core courses that reflect challenging State academic standards.

"(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 404A(c)(2), and other activities that support participating students in—

"(A) meeting challenging academic standards;

"(B) successfully applying for postsecondary education;

"(C) successfully applying for student financial aid; and

"(D) developing graduation and career plans.

"(6) Providing support for scholarships described in section 404E.

"(7) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

"(8) Providing an intensive extended school day, school year, or summer program that offers—

"(A) additional academic classes; or

"(B) assistance with college admission applications.

"(9) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

"(A) the identification of at-risk children;

"(B) after-school and summer tutoring;

"(C) assistance to at-risk children in obtaining summer jobs;

"(D) academic counseling;

"(E) volunteer and parent involvement;

"(F) encouraging former or current participants of a program under this chapter to serve as peer counselors;

"(G) skills assessments;

"(H) personal counseling;

"(I) family counseling and home visits;

"(J) staff development; and

"(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

"(10) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

"(11) Providing services to eligible students in the participating cohort described in section 404B(d)(1)(A), through the first year of attendance at an institution of higher education.

"(c) ADDITIONAL OPTIONAL ACTIVITIES FOR STATES.—In addition to the required activities described in subsection (a) and the optional activities described in subsection (b), an eligible entity described in section 404A(c)(1) receiving funds under this chapter may use grant funds to carry out 1 or more of the following activities:

"(1) Providing technical assistance to—

"(A) middle schools or secondary schools that are located within the State; or

"(B) partnerships described in section 404A(c)(2) that are located within the State.

"(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 404B(d)(1)(A).

"(3) Providing strategies and activities that align efforts in the State to prepare eligible students for attending and succeeding in postsecondary education, which may include the development of graduation and career plans.

"(4) Disseminating information on the use of scientifically based research and best practices to improve services for eligible students.

"(5)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

"(B) Identifying and disseminating information on best practices with respect to—

"(i) increasing parental involvement; and

"(ii) preparing students, including students with disabilities and students who are limited

English proficient, to succeed academically in, and prepare financially for, postsecondary education.

"(6) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

"(7) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

"(8) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

"(d) PRIORITY STUDENTS.—For eligible entities not using a cohort approach, the eligible entity shall treat as priority students any student in middle or secondary school who is eligible—

"(1) to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965;

"(2) for free or reduced price meals under the Richard B. Russell National School Lunch Act;

"(3) for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.); or

"(4) for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

"(e) ALLOWABLE PROVIDERS.—In the case of eligible entities described in section 404A(c)(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.".

(e) SCHOLARSHIP COMPONENT.—Section 404E (20 U.S.C. 1070a–25) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (f), and (g), respectively;

(3) by inserting after subsection (a) the following:

"(b) LIMITATION.—

"(1) IN GENERAL.—Subject to paragraph (2), each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 404D(c), with the remainder of such funds to be used for a scholarship program under this section.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this chapter for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 404C.

"(c) NOTIFICATION OF ELIGIBILITY.—Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the stu-

dents' entry into the programs assisted under this chapter.";

(4) in subsection (d) (as redesignated by paragraph (2)), by striking "the lesser of" and all that follows through the period at the end of paragraph (2) and inserting "the minimum Federal Pell Grant award under section 401 for such award year.";

(5) by inserting after subsection (d) (as redesignated by paragraph (2) and amended by paragraph (4)) the following:

"(e) PORTABILITY OF ASSISTANCE.—

"(1) IN GENERAL.—Each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall create or organize a trust for each cohort described in section 404B(d)(1)(A) for which the grant is sought in the application submitted by the entity, which trust shall be an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students participating in the cohort.

"(2) REQUIREMENT FOR PORTABILITY.—Funds contributed to the trust for a cohort shall be available to a student in the cohort when the student has—

"(A) completed a secondary school diploma, its recognized equivalent, or other recognized alternative standard for individuals with disabilities; and

"(B) enrolled in an institution of higher education.

"(3) QUALIFIED EDUCATIONAL EXPENSES.—Funds available to an eligible student from a trust may be used for—

"(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

"(B) in the case of an eligible student with special needs, expenses for special needs services which are incurred in connection with such enrollment or attendance.

"(4) RETURN OF FUNDS.—

"(A) REDISTRIBUTION.—

"(i) IN GENERAL.—Trust funds that are not used by an eligible student within 6 years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

"(ii) RETURN OF EXCESS TO THE SECRETARY.—If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i), an eligible entity has funds remaining, the eligible entity shall return excess funds to the Secretary for distribution to other grantees under this chapter.

"(B) NONPARTICIPATING ENTITY.—Notwithstanding subparagraph (A), in the case of an eligible entity described in section 404A(c)(1)(A) that does not receive assistance under this subpart for 6 fiscal years, the eligible entity shall return any trust funds not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this chapter."; and

(6) in subsection (g) (as redesignated by paragraph (2))—

(A) in paragraph (2), by striking "1993" and inserting "2000"; and

(B) in paragraph (4), by striking "early intervention component required under section 404D" and inserting "activities required under section 404D(a)".

(f) REPEAL OF 21ST CENTURY SCHOLAR CERTIFICATES.—Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.) is further amended—

(1) by striking section 404F; and

(2) by redesignating sections 404G and 404H as sections 404F and 404G, respectively.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 404G (as redesignated by subsection (f)) (20 U.S.C. 1070a–28) is amended by striking ''$200,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

(h) CONFORMING AMENDMENTS.—Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.) is further amended—

(1) in section 404A(b)(1), by striking ''404H'' and inserting ''404G'';

(2) in section 404B(a)(1), by striking ''404H'' and inserting ''404G''; and

(3) in section 404F(c) (as redesignated by subsection (f)(2)), by striking ''404H'' and inserting ''404G''.

**SEC. 7364. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS.**

Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a-31 et seq.) is repealed.

**SEC. 7365. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.**

(a) APPROPRIATIONS AUTHORIZED.—Section 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by striking ''$675,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

(b) ALLOCATION OF FUNDS.—

(1) ALLOCATION OF FUNDS.—Section 413D (20 U.S.C. 1070b–3) is amended—

(A) by striking subsection (a)(4); and

(B) in subsection (c)(3)(D), by striking ''$450'' and inserting ''$600''.

(2) TECHNICAL CORRECTION.—Section 413D(a)(1) (20 U.S.C. 1070b–3(a)(1)) is amended by striking ''such institution'' and all that follows through the period and inserting ''such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).''.

**SEC. 7366. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.**

(a) APPROPRIATIONS AUTHORIZED.—Section 415A(b)(1) (20 U.S.C. 1070c(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(b) APPLICATIONS.—Section 415C(b) (20 U.S.C. 1070c–2(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (2), by striking "not in excess of $5,000 per academic year" and inserting "not to exceed the lesser of $12,500 or the student's cost of attendance per academic year"; and

(2) by striking paragraph (10) and inserting the following:

"(10) provides notification to eligible students that such grants are—

"(A) Leveraging Educational Assistance Partnership grants; and

"(B) funded by the Federal Government, the State, and other contributing partners.".

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E (20 U.S.C. 1070c–3a) is amended to read as follows:

**"SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.**

"(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

"(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties in order to—

"(A) carry out activities under this section; and

"(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

"(2) provide need-based grants for access and persistence to eligible low-income students;

"(3) provide early notification to low-income students of the students' eligibility for financial aid; and

"(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

"(b) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

"(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

"(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in such State's application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

"(ii) PRIORITY.—The Secretary shall give priority in making allotments to

States that meet the requirements described in paragraph (2)(A)(ii).

"(2) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share under this section shall be determined in accordance with the following:

"(i) If a State applies for an allotment under this section in partnership with—

"(I) any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State; and

"(II)(aa) philanthropic organizations that are located in, or that provide funding in, the State; or

"(bb) private corporations that are located in, or that do business in, the State,

then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 50 percent.

"(ii) If a State applies for an allotment under this section in partnership with—

"(I) any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State; and

"(II)(aa) philanthropic organizations that are located in, or that provide funding in, the State; or

"(bb) private corporations that are located in, or that do business in, the State,

then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

"(B) NON-FEDERAL SHARE.—

"(i) IN GENERAL.—The non-Federal share under this section may be provided in cash or in kind, fully evaluated and in accordance with this subparagraph.

"(ii) IN KIND CONTRIBUTION.—For the purpose of calculating the non-Federal

share under this section, an in kind contribution is a non-cash award that has monetary value, such as provision of room and board and transportation passes, and that helps a student meet the cost of attendance.

"(iii) EFFECT ON NEED ANALYSIS.—For the purpose of calculating a student's need in accordance with part F of this title, an in-kind contribution described in clause (ii) shall not be considered an asset or income.

"(c) APPLICATION FOR ALLOTMENT.—

"(1) IN GENERAL.—

"(A) SUBMISSION.—A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

"(i) A description of the State's plan for using the allotted funds.

"(ii) Assurances that the State will provide the non-Federal share from State, institutional, philanthropic, or private funds, of not less than the required share of the cost of carrying out the activities under subsection (d), as determined under subsection (b), in accordance with the following:

"(I) The State shall specify the methods by which non-Federal share funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title.

"(II) A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward

fulfilling the State's non-Federal share obligation under this clause.

"(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

"(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

"(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

"(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

"(I) Leveraging Educational Assistance Partnership Grants; and

"(II) funded by the Federal Government, the State, and other contributing partners.

"(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

"(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

"(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State, if applicable;

"(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

"(C) not less than 1—

"(i) philanthropic organization located in, or that provides funding in, the State; or

"(ii) private corporation located in, or that does business in, the State.

"(4) ROLES OF PARTNERS.—

"(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) serve as the primary administrative unit for the partnership;

"(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

"(III) encourage each institution of higher education in the State to participate in the partnership;

"(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

"(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

"(ii) may provide early information and intervention, mentoring, or outreach programs.

"(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting insti-

tution of higher education that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

"(II) provide support services to students who receive grants for access and persistence under this section and are enrolled at such institution; and

"(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

"(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

"(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct

1 services, support, and information to partici-
2 pating students.
3 "(D) PHILANTHROPIC ORGANIZATION OR
4 PRIVATE CORPORATION.—A philanthropic orga-
5 nization or private corporation that is in a part-
6 nership receiving an allotment under this sec-
7 tion shall provide funds for grants for access
8 and persistence for participating students, or
9 provide funds or support for early information
10 and intervention, mentoring, or outreach pro-
11 grams.
12 "(d) AUTHORIZED ACTIVITIES.—
13 "(1) IN GENERAL.—
14 "(A) ESTABLISHMENT OF PARTNER-
15 SHIP.—Each State receiving an allotment under
16 this section shall use the funds to establish a
17 partnership to award grants for access and per-
18 sistence to eligible low-income students in order
19 to increase the amount of financial assistance
20 such students receive under this subpart for un-
21 dergraduate education expenses.
22 "(B) AMOUNT OF GRANTS.—
23 "(i) PARTNERSHIPS WITH INSTITU-
24 TIONS SERVING LESS THAN A MAJORITY
25 OF STUDENTS IN THE STATE.—

"(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(A)(i), the amount of a grant for access and persistence awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, work study amount, and scholarship amount received by the student), and such amount shall be used toward the cost of attendance at an institution of higher education located in the State.

"(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institu-

tions of higher education in the State, may increase the amount of grants for access and persistence awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, work study amount, and scholarship amount received by the student).

''(ii) PARTNERSHIPS WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(A)(ii), the amount of a grant for access and persistence awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship

amount received by the student), and such amount shall be used by the student to attend an institution of higher education located in the State.

"(C) SPECIAL RULES.—

"(i) PARTNERSHIP INSTITUTIONS.—A State receiving an allotment under this section may restrict the use of grants for access and persistence under this section by awarding the grants only to students attending institutions of higher education that are participating in the partnership.

"(ii) OUT-OF-STATE INSTITUTIONS.—If a State provides grants through another program under this subpart to students attending institutions of higher education located in another State, such agreement may also apply to grants awarded under this section.

"(2) EARLY NOTIFICATION.—

"(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the

Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State, of the students' potential eligibility for student financial assistance, including a grant for access and persistence, to attend an institution of higher education.

"(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

"(i) shall include—

"(I) information about early information and intervention, mentoring, or outreach programs available to the student;

"(II) information that a student's candidacy for a grant for access and persistence is enhanced through participation in an early information and intervention, mentoring, or outreach program;

"(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for a grant for access and persistence and other student aid programs;

"(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of a grant for access and persistence and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

"(V) an explanation that in order to be eligible for a grant for access and persistence, at a minimum, a student shall—

"(aa) meet the requirement under paragraph (3);

"(bb) graduate from secondary school; and

"(cc) enroll at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

"(VI) information on any additional requirements (such as a student

pledge detailing student responsibilities) that the State may impose for receipt of a grant for access and persistence under this section; and

"(VII) instructions on how to apply for a grant for access and persistence and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

"(ii) may include a disclaimer that grant awards for access and persistence are contingent upon—

"(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

"(II) annual Federal and State appropriations; and

"(III) other aid received by the student at the time of the student's enrollment at such institution of higher education.

"(3) ELIGIBILITY.—In determining which students are eligible to receive grants for access and persistence, the State shall ensure that each such student meets not less than 1 of the following:

"(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

"(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

"(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

"(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

"(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

"(B) Is receiving, or has received, a grant for access and persistence under this section, in accordance with paragraph (5).

"(4) GRANT AWARD.—Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

"(A) issue the student a preliminary award certificate for a grant for access and persistence with tentative award amounts; and

"(B) inform the student that payment of the grant for access and persistence award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

"(5) DURATION OF AWARD.—An eligible student that receives a grant for access and persistence under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to degree completion.

"(e) USE OF FUNDS FOR ADMINISTRATIVE COSTS PROHIBITED.—A State that receives an allotment under this section shall not use any of the allotted funds to pay administrative costs associated with any of the authorized activities described in subsection (d).

"(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(A)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

1 "(g) APPLICABILITY RULE.—The provisions of this
2 subpart which are not inconsistent with this section shall
3 apply to the program authorized by this section.

4 "(h) MAINTENANCE OF EFFORT REQUIREMENT.—
5 Each State receiving an allotment under this section for
6 a fiscal year shall provide the Secretary with an assurance
7 that the aggregate amount expended per student or the
8 aggregate expenditures by the State, from funds derived
9 from non-Federal sources, for the authorized activities de-
10 scribed in subsection (d) for the preceding fiscal year were
11 not less than the amount expended per student or the ag-
12 gregate expenditure by the State for the activities for the
13 second preceding fiscal year.

14 "(i) SPECIAL RULE.—Notwithstanding subsection
15 (h), for purposes of determining a State's share of the cost
16 of the authorized activities described in subsection (d), the
17 State shall consider only those expenditures from non-
18 Federal sources that exceed the State's total expenditures
19 for need-based grants, scholarships, and work-study as-
20 sistance for fiscal year 1999 (including any such assist-
21 ance provided under this subpart).

22 "(j) CONTINUATION AND TRANSITION.—For the 2-
23 year period that begins on the date of enactment of the
24 Higher Education Amendments of 2005, the Secretary
25 shall continue to award grants under section 415E of the

Higher Education Act of 1965 as such section existed on the day before the date of enactment of such Act to States that choose to apply for grants under such predecessor section.

''(k) REPORTS.—Not later than 3 years after the date of enactment of the Higher Education Amendments of 2005 and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.''.

**SEC. 7367. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.**

Section 418A (20 U.S.C. 1070d–2) is amended—

(1) in subsection (a), by adding ''(including providing outreach and technical assistance)'' after ''maintain and expand'';

(2) in subsection (b)—

(A) in paragraph (1)(B)(i), by striking ''parents'' and inserting ''immediate family'';

(B) in paragraph (3)(B), by inserting ''(including preparation for college entrance examinations)'' after ''college program'';

(C) in paragraph (5), by striking ''weekly'';

(D) in paragraph (7), by striking ''and'' after the semicolon;

(E) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(F) by adding at the end the following:

''(9) other activities to improve persistence and retention in postsecondary education.'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) in the matter preceding clause (i), by inserting ''to improve placement, persistence, and retention in postsecondary education'' after ''services''; and

(II) in clause (i), by striking ''and career'' and inserting ''career, and economic education or personal finance'';

(ii) in subparagraph (E), by striking ''and'' after the semicolon;

(iii) by redesignating subparagraph (F) as subparagraph (G); and

(iv) by inserting after subparagraph (E) the following:

"(F) internships; and"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting ", and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and"; and

(iii) by adding at the end the following:

"(C) for students attending 2-year institutions of higher education, encouraging the students to transfer to 4-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.";

(4) in subsection (e), by striking "section 402A(c)(1)" and inserting "section 402A(c)(2)";

(5) in subsection (f)—

(A) in paragraph (1), by striking "$150,000" and inserting "$180,000"; and

(B) in paragraph (2), by striking ''$150,000'' and inserting ''$180,000''; and

(6) in subsection (h)—

(A) in paragraph (1), by striking ''$15,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''; and

(B) in paragraph (2), by striking ''$5,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7368. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.**

(a) ELIGIBILITY OF SCHOLARS.—Section 419F(a) (20 U.S.C. 1070d–36(a)) is amended by inserting ''(or a home school, whether treated as a home school or a private school under State law)'' after ''private or public secondary school''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 419K (20 U.S.C. 1070d–41) is amended by striking ''$45,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be

necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7369. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.**

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) (20 U.S.C. 1070e(b)(2)(B)) is amended—

(1) by striking ''A grant'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), a grant''; and

(2) by adding at the end the following:

''(ii) INCREASE TRIGGER.—For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.''.

(b) DEFINITION OF LOW-INCOME STUDENT.—Paragraph (7) of section 419N(b) (20 U.S.C. 1070e(b)) is amended to read as follows:

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student who—

"(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made; or

"(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

"(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

"(ii) section 484(a)(5) because the student is in the United States for a temporary purpose.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) (20 U.S.C. 1070e(g)) is amended by striking "$45,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

**SEC. 7370. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

Subpart 8 of part A of title IV (20 U.S.C. 1070f et seq.) is repealed.

## Subchapter B—Federal Family Education Loan Program

**SEC. 7381. EXTENSION OF AUTHORITIES.**

(a) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking ''2004'' and inserting ''2012''; and

(2) by striking ''2008'' and inserting ''2016''.

(b) GUARANTEED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(1) by striking ''2004'' and inserting ''2012''; and

(2) by striking ''2008'' and inserting ''2016''.

(3) CONSOLIDATION LOANS.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking ''2004'' and inserting ''2012''.

**SEC. 7382. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.**

Section 428 (20 U.S.C. 1078) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (N)—

(i) in clause (i), by striking ''or'' after the semicolon; and

(ii) by striking clause (ii) and inserting the following:

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i);"; and

(B) in subparagraph (Y)(i)(III), by inserting ", except that, if requested by an institution of higher education, the lender shall confirm

such status through use of the National Student Loan Data System'' before the semicolon; and

(2) in subsection (c)(2)(H)(i), by striking ''preclaims'' and inserting ''default aversion''.

**SEC. 7383. FEDERAL CONSOLIDATION LOANS.**

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

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) that the lender will disclose, in a clear and conspicuous manner, to borrowers who consolidate loans made under part E of this title—

''(i) that once the borrower adds the borrower's Federal Perkins Loan to a Federal Consolidation Loan, the borrower will lose all interest-free periods that would have been available, such as those periods when no interest accrues on the Federal Perkins Loan while the borrower is en-

rolled in school at least half-time, during the grace period, and during periods when the borrower's student loan repayments are deferred;

"(ii) that the borrower will no longer be eligible for loan forgiveness of Federal Perkins Loans under any provision of section 465; and

"(iii) the occupations described in section 465(a)(2), individually and in detail, for which the borrower will lose eligibility for Federal Perkins Loan forgiveness; and".

**SEC. 7384. DEFAULT REDUCTION PROGRAM.**

Section 428F (20 U.S.C. 1078–6) is amended by adding at the end the following:

"(c) FINANCIAL AND ECONOMIC LITERACY.—Where appropriate as determined by the institution of higher education in which a borrower is enrolled, each program described in subsection (b) shall include making available financial and economic education materials for the borrower, including making the materials available before, during, or after rehabilitation of a loan.".

**SEC. 7385. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.**

Section 428G(e) (20 U.S.C. 1078–7(e)) is amended by striking ", made to a student to cover the cost of attendance at an eligible institution outside the United States".

**SEC. 7386. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.**

Section 430A(a) (20 U.S.C. 1080a(a)) is amended—

(1) in the first sentence, by striking "with credit bureau organizations" and inserting "with each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p))";

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)), the following:

"(1) the type of loan made, insured, or guaranteed under this title;";

(4) by inserting after paragraph (2) (as redesignated by paragraph (2)), the following:

"(3) information concerning the repayment status of the loan, which information shall be included in the file of the borrower, except that nothing in

this subsection shall be construed to affect any otherwise applicable provision of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)";

(5) in paragraph (4) (as redesignated by paragraph (2)), by striking "and" after the semicolon;

(6) in paragraph (5) (as redesignated by paragraph (2)), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(6) any other information required to be reported by Federal law.".

**SEC. 7387. COMMON FORMS AND FORMATS.**

Section 432(m)(1)(D)(i) (20 U.S.C. 1082(m)(1)(D)(i)) is amended by adding at the end the following: "Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part D may use a master promissory note for loans under this part and part D.".

**SEC. 7388. STUDENT LOAN INFORMATION BY ELIGIBLE BORROWERS.**

Section 433 (20 U.S.C. 1083) is amended by adding at the end the following:

"(f) BORROWER INFORMATION AND PRIVACY.—Each entity participating in a program under this part that is subject to subtitle A of title V of the Gramm-Leach-Bliley

1 Act (15 U.S.C. 6801 et seq.) shall only use, release, dis-
2 close, sell, transfer, or give student information, including
3 the name, address, social security number, or amount bor-
4 rowed by a borrower or a borrower's parent, in accordance
5 with the provisions of such subtitle.

6 "(g) LOAN BENEFIT DISCLOSURES.—

7 "(1) IN GENERAL.—Each eligible lender, hold-
8 er, or servicer of a loan made, insured, or guaran-
9 teed under this part shall provide the borrower with
10 information on the loan benefit repayment options
11 the lender, holder, or servicer offer, including infor-
12 mation on reductions in interest rates—

13 "(A) by repaying the loan by automatic
14 payroll or checking account deduction;

15 "(B) by completing a program of on-time
16 repayment; and

17 "(C) under any other interest rate reduc-
18 tion program.

19 "(2) INFORMATION.—Such borrower informa-
20 tion shall include—

21 "(A) any limitations on such options;

22 "(B) explicit information on the reasons a
23 borrower may lose eligibility for such an option;

"(C) examples of the impact the interest rate reductions will have on a borrower's time for repayment and amount of repayment;

"(D) upon the request of the borrower, the effect the reductions in interest rates will have with respect to the borrower's payoff amount and time for repayment; and

"(E) information on borrower recertification requirements.".

**SEC. 7389. CONSUMER EDUCATION INFORMATION.**

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 433 (20 U.S.C. 1083) the following:

**"SEC. 433A. CONSUMER EDUCATION INFORMATION.**

"Each guaranty agency participating in a program under this part working with the institutions of higher education served by such guaranty agency (or in the case of an institution of higher education that provides loans exclusively through part D, the institution working with a guaranty agency or with the Secretary) shall develop and make available a quality educational program and materials to provide training for students in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using very high interest loans to pay for postsecondary edu-

cation, particularly as budgeting and financial management relates to student loan programs authorized by this title. Nothing in this section shall be construed to prohibit a guaranty agency from using an existing program or existing materials to meet the requirement of this section. The activities described in this section shall be considered default reduction activities for the purposes of section 422.''.

**SEC. 7390. DEFINITION OF ELIGIBLE LENDER.**

Section 435(d)(2) (20 U.S.C. 1085(d)(2)) is amended by striking subparagraph (F) and inserting the following:

''(F) shall use the proceeds from special allowance payments, interest payments from borrowers, proceeds from the sale of a loan made, insured, or guaranteed under this part, and all other proceeds related to such a loan that are furnished to the eligible institution or any entity affiliated (directly or indirectly) with the eligible institution, for need based grant programs, except that such payments and proceeds may be used for reasonable reimbursement for direct administrative expenses;''.

**SEC. 7390A. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.**

Section 437 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking ''**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**'' and inserting ''**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**''; and

(2) in the first sentence of subsection (c)(1), by inserting ''or was falsely certified as a result of a crime of identity theft'' after ''falsely certified by the eligible institution''.

## Subchapter C—Federal Work-Study Programs

**SEC. 7391. AUTHORIZATION OF APPROPRIATIONS.**

Section 441(b) (42 U.S.C. 2751(b)) is amended by striking ''$1,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7392. ALLOWANCE FOR BOOKS AND SUPPLIES.**

Section 442(c)(4)(D) (42 U.S.C. 2752(c)(4)(D)) is amended by striking ''$450'' and inserting ''$600''.

**SEC. 7393. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.**

Section 443(b)(2) (42 U.S.C. 2753(b)(2)) is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(3) in subparagraph (A) (as redesignated by paragraph (2)), by striking ''this subparagraph if'' and all that follows through ''institution;'' and inserting ''this subparagraph if—

''(i) the Secretary determines that enforcing this subparagraph would cause hardship for students at the institution; or

''(ii) the institution certifies to the Secretary that 15 percent or more of its total full-time enrollment participates in community service activities described in section 441(c) or tutoring and literacy activities described in subsection (d) of this section;''.

**SEC. 7394. JOB LOCATION AND DEVELOPMENT PROGRAMS.**

Section 446(a)(1) (42 U.S.C. 2756(a)(1)) is amended by striking ''$50,000'' and inserting ''$75,000''.

**SEC. 7395. WORK COLLEGES.**

Section 448 (42 U.S.C. 2756b) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''under subsection (f)'' and inserting ''for this section under section 441(b)''; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''pursuant to subsection (f)'' and inserting ''for this section under section 441(b)'';

(ii) by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively; and

(iii) by inserting after subparagraph (B) the following:

''(C) support existing and new model student volunteer community service projects associated with local institutions of higher education, such as operating drop-in resource centers that are staffed by students and that link people in need with the resources and opportunities necessary to become self-sufficient;'';

(2) in subsection (c), by striking "by subsection (f) to use funds under subsection (b)(1)" and inserting "for this section under section 441(b) or to use funds under subsection (b)(1),"; and

(4) by striking subsection (f).

## Subchapter D—William D. Ford Federal Direct Loan Program

**SEC. 7401. FUNDS FOR ADMINISTRATIVE EXPENSES.**

Section 458 (20 U.S.C. 1087h) is amended—

(1) in subsection (a)(1), in the matter following subparagraph (B), by striking "$617,000,000" and all that follows through the period and inserting "$904,000,000 in fiscal year 2006, $943,000,000 in fiscal year 2007, $983,000,000 in fiscal year 2008, $1,023,000,000 in fiscal year 2009, $1,064,000,000 in fiscal year 2010, and $1,106,000,000 in fiscal year 2011."; and

(2) in subsection (c)(1), by striking subparagraphs (A) through (E) and inserting the following:

"(A) for fiscal year 2006, shall not exceed $271,000,000;

"(B) for fiscal year 2007, shall not exceed $293,000,000;

"(C) for fiscal year 2008, shall not exceed $315,000,000;

"(D) for fiscal year 2009, shall not exceed $336,000,000;

"(E) for fiscal year 2010, shall not exceed $356,000,000; and

"(F) for fiscal year 2011, shall not exceed $378,000,000.".

## Subchapter E—Federal Perkins Loans

**SEC. 7411. PROGRAM AUTHORITY.**

Section 461(b) (20 U.S.C. 1087aa(b)) is amended—

(1) in paragraph (1), by striking "$250,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years."; and

(2) in paragraph (2),—

(A) by striking "fiscal year 2003" and inserting "fiscal year 2012"; and

(B) by striking "October 1, 2003" and inserting "October 1, 2012".

**SEC. 7412. TERMS OF LOANS.**

Section 464 (20 U.S.C. 1087dd) is amended—

(1) in subsection (b)(1), by striking "for an additional loan under this part" and inserting "for additional aid under this title"; and

(2) in subsection (e), by striking "written".

**SEC. 7413. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.**

Section 465(a) (20 U.S.C. 1087ee(a)) is amended—

(1) in paragraph ( 2)—

(A) in subparagraph (B), by striking ''Head Start Act which'' and inserting ''Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that'';

(B) in subparagraph (H), by striking ''or'' after the semicolon;

(C) in subparagraph (I), by striking the period and inserting a semicolon; and

(D) by inserting before the matter following subparagraph (I) (as amended by subparagraph (C)) the following:

''(J) as a full-time faculty member at a Tribal College or University, as that term is defined in section 316;

''(K) as a librarian, if the librarian has a master's degree in library science and is employed in—

''(i) an elementary school or secondary school that is eligible for assistance under title I of the Elementary and Secondary Education Act of 1965; or

"(ii) a public library that serves a geographic area that contains 1 or more schools eligible for assistance under title I of the Elementary and Secondary Education Act of 1965; or

"(L) as a full-time speech language therapist, if the therapist has a master's degree and is working exclusively with schools that are eligible for assistance under title I of the Elementary and Secondary Education Act of 1965."; and

(2) in paragraph (3)(A)(i), by striking "or (I)" and inserting "(I), (J), (K), or (L)".

**SEC. 7414. FEDERAL CAPITAL CONTRIBUTION RECOVERY.**

Section 466 (20 U.S.C. 1087ff) is amended—

(1) in subsection (a)—

(A) by striking "2003" each place it appears and inserting "2011"; and

(B) by striking "2004" and inserting "2012"; and

(2) in subsection (c), by striking "2004" and inserting "2012".

## Subchapter F—Need Analysis

**SEC. 7421. COST OF ATTENDANCE.**

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one time cost of obtaining the first professional credentials (as determined by the institution).".

**SEC. 7422. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.**

The third sentence of section 479A(a) (20 U.S.C. 1087tt(a)) is amended—

(1) by inserting ''or an independent student'' after ''family member''; and

(2) by inserting ''a change in housing status that results in homelessness,'' after ''under section 487,''.

**SEC. 7423. DEFINITIONS.**

(a) DEFINITIONS.—Section 480 (20 U.S.C. 1087vv) is amended—

(1) in subsection (f)—

(A) in paragraph (1), by inserting ''qualified education benefits (except as provided in paragraph (3)),'' after ''tax shelters,''; and

(B) by adding at the end the following:

''(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

''(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

''(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) QUALIFIED EDUCATION BENEFIT.—The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986."; and

(2) in subsection (j)—

(A) in the subsection heading, by striking "; TUITION PREPAYMENT PLANS";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) by inserting after paragraph (2) (as redesignated by subparagraph (C)) the following paragraph:

''(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is designated by the State providing that assistance to offset a specific component of the cost of attendance. If that assistance is excluded from estimated financial assistance or cost of attendance, that assistance shall be excluded from both calculations.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations of need under part F of title IV for academic years beginning on or after July 1, 2006.

## Subchapter G—General Provisions Relating to Student Assistance

**SEC. 7431. DEFINITIONS.**

Section 481 (20 U.S.C. 1088) is amended—

(1) in the second sentence of subsection (a)(2), by inserting ''and that measures program length in credit hours or clock hours'' after ''baccalaureate degree''; and

(2) in subsection (b), by adding at the end the following:

"(3) For purposes of this title, the term 'eligible program' includes an instructional program that utilizes direct assessment of student learning or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment, in lieu of credit hours or clock hours as the measure of student learning. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.".

**SEC. 7432. COMPLIANCE CALENDAR.**

Section 482 (20 U.S.C. 1089) is amended by adding at the end the following:

"(a) COMPLIANCE CALENDAR.—Prior to the beginning of each award year, the Secretary shall provide to institutions of higher education a list of all the reports and disclosures required under this Act. The list shall include—

"(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

"(2) the required recipients of each report or disclosure;

"(3) any required method for transmittal or dissemination of each report or disclosure;

"(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for such report or disclosure;

"(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

"(6) any other information which is pertinent to the content or distribution of the report or disclosure.".

**SEC. 7433. FORMS AND REGULATIONS.**

Section 483 (20 U.S.C. 1090) is amended—

(1) by striking subsections (a) and (b), and inserting the following:

"(a) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used to determine the need and eli-

gibility of a student for financial assistance under parts A through E of this title (other than under subpart 4 of part A). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid', or 'FAFSA'.

"(2) PAPER FORMAT.—

"(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of or do not wish to use the process described in subparagraph (B).

"(B) EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements under section 479(c).

"(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit for purposes of deter-

mining financial need and eligibility, only the data elements required to make a determination of student eligibility and whether the applicant meets the requirements of section 479(c).

"(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

"(C) PHASING OUT THE FULL PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

"(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Higher Education Amendments of 2005, to the extent practicable, the Secretary shall phase out the printing of the long paper form created under subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

"(iii) AVAILABILITY OF FULL PAPER FAFSA.—

"(I) IN GENERAL.—Both prior to and after the phaseout described in clause (ii), the Secretary shall maintain on the Internet printable versions of the paper forms described in subparagraphs (A) and (B).

"(II) ACCESSIBILITY.—The printable versions described in subclause (I) shall be made easily accessible and downloadable to students on the same Web site used to provide students with the common electronic forms described in paragraph (3).

"(III) SUBMISSION OF FORMS.—The Secretary shall conduct a study to determine the feasibility of using downloaded forms to ensure sufficient quality to meet the processing requirements of this section. Following the completion of the study, the Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded from the Internet and printed, in order to meet the filing requirements of this section and to receive financial assistance under this title.

"(iv) USE OF SAVINGS.—

"(I) IN GENERAL.—The Secretary shall utilize any realized savings accrued by phasing out the full

paper FAFSA and moving more applicants to the common electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

"(II) REPORT.—The Secretary shall report annually to the authorizing committees on—

"(aa) the steps taken to improve access to the common electronic forms for applicants meeting the requirements of section 479(c); and

"(bb) the phaseout of the long common paper form described in subparagraph (A).

"(3) ELECTRONIC FORMAT.—

"(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in electronic format and make such forms available through a broadly accessible website to meet the requirements of paragraph (1). The Secretary shall develop common electronic forms for applicants who do not meet the requirements of subparagraph (B). The Secretary

shall include on the common electronic forms space for information that needs to be submitted from the applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence. The Secretary shall use all available technology to ensure that a student using a common electronic form answers only the minimum number of questions necessary.

"(B) SIMPLIFIED ELECTRONIC APPLICATIONS.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements of section 479(c) and an additional, separate simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

"(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application forms shall permit an applicant to submit for purposes of determining finan-

cial need and eligibility, only the data elements required to make a determination of student eligibility and whether the applicant meets the requirements of subsection (b) or (c) of section 479.

"(iii) STATE DATA.—The Secretary shall include on the simplified electronic application forms such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence and shall not include a State's data if such State does not permit its applicants for State assistance to use the simplified electronic application form described in this subparagraph.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application forms, and the data collected by means of the simplified electronic application forms shall be available to institutions of higher education, guaranty agencies,

and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the forms developed under this subparagraph.

"(C) USE OF FORMS.—Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, a guaranty agency, a State grant agency, a private computer software provider, a consortium of such entities, or such other entity as the Secretary may designate. Data collected by the forms shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

"(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms.

"(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (F).

"(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

"(i) to enable the applicants to use such numbers as a signature for purposes of completing a form under this paragraph; and

"(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

"(4) STREAMLINED REAPPLICATION PROCESS.—

"(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to an academic year in which such applicant applied for financial assistance under this title.

"(B) MECHANISMS FOR REAPPLICATION.—The Secretary shall develop appropriate mechanisms to support reapplication.

"(C) IDENTIFICATION OF UPDATED DATA.—The Secretary shall determine, in cooperation with States, institutions of higher

education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

"(D) REDUCED DATA AUTHORIZED.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

"(E) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a replication form, except that which is necessary to determine eligibility under such section.

"(5) STATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assist-

ance in accordance with the terms of this subsection, except as provided in paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii). The number of such data items shall not be less than the number included on the form for the 2005–2006 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

"(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which data items the States require to award need-based State aid.

"(C) ENCOURAGE USE OF FORMS.—The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified application forms, including those described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 479.

"(D) FEDERAL REGISTER NOTICE.—The Secretary shall publish, on an annual basis, a notice in the Federal Register requiring States to inform the Secretary—

"(i) if the State plans to use the FAFSA to collect data to determine eligibility for State need-based financial aid;

"(ii) of the State-specific data that the State requires for delivery of State need-based financial aid; and

"(iii) if the State agency is unable to permit applicants to utilize the simplified application forms described in paragraph (2)(B) or (3)(B).

"(E) STATE NOTIFICATION TO THE SECRETARY.—

"(i) IN GENERAL.—Each State agency shall notify the Secretary—

"(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid; and

"(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

"(ii) ACCEPTANCE OF FORMS.—If a State does not permit an applicant to file a form described in paragraph (2)(B) or

(3)(B) for purposes of determining eligibility for State need-based financial aid, then the State shall notify the Secretary if it is not permitted to do so because of State law or agency policy. The notification shall include an acknowledgment that State-specific questions will not be included on a form described in paragraph (2)(B) or (3)(B).

"(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

"(I) permit residents of that State to complete simplified application forms under paragraphs (2)(B) and (3)(B); and

"(II) not require any resident of such State to complete any data previously required by that State under this section.

"(F) RESTRICTION.—The Secretary shall not require applicants to complete any financial or non-financial data that are not required by the applicant's State, except as may be required

for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

"(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may be determined only by using a form developed by the Secretary pursuant to this subsection. No student may receive financial assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document that the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and

free financial aid application process and for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(F) for purposes of submitting an application on an applicant's behalf.

"(7) APPLICATION PROCESSING CYCLE.—The Secretary shall—

"(A) enable students to submit forms created under this subsection in order to meet the filing requirements of this section and in order to receive financial assistance from programs under this title; and

"(B) enable students to submit forms created under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

"(8) EARLY ESTIMATES.—The Secretary shall permit an applicant to complete a form described in this subsection in the years prior to enrollment in order to obtain from the Secretary a nonbinding estimate of the applicant's expected family contribution, as defined in section 473. Such applicant shall

be permitted to update information submitted on a form described in this subsection using the process required under paragraph (4).

"(9) DISTRIBUTION OF DATA.—Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

"(10) THIRD PARTY SERVICERS AND PRIVATE SOFTWARE PROVIDERS.—To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this title, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) which are so used. The specifications shall

contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

''(11) PARENT'S SOCIAL SECURITY NUMBER AND BIRTH DATE.—The Secretary is authorized to include on the form developed under this subsection space for the social security number and birth date of parents of dependent students seeking financial assistance under this title.'';

(2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking ''that is authorized'' and all that follows through the period at the end and inserting ''or other appropriate provider of technical assistance and information on postsecondary educational services that is authorized under section

663(a) of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Higher Education Amendments of 2005, the Secretary shall test and implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of 479(c) to submit an application over such system.''; and

(4) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

''(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

''(1) PREPARATION AUTHORIZED.—Notwithstanding any provision of this Act, an applicant may use a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a) if the preparer satisfies the requirements of this subsection.

''(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

"(3) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

"(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for free via paper or electronic forms provided by the Secretary;

"(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

"(C) not charge any fee to any individual seeking such services who meets the requirements of subsection (b) or (c) of section 479.

"(4) SPECIAL RULE.—Nothing in this Act shall be construed to limit preparers of the common financial reporting forms required to be made under this title who meet the requirements of this subsection

from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.''.

**SEC. 7434. STUDENT ELIGIBILITY.**

Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (d), by adding at the end the following:

''(4) The student shall be determined by the institution of higher education as having the ability to benefit from the education or training offered by the institution of higher education, upon satisfactory completion of 6 credit hours or the equivalent coursework that are applicable toward a degree or certificate offered by the institution of higher education.'';

(2) by striking subsection (*l*) and inserting the following:

''(l) COURSES OFFERED THROUGH DISTANCE EDUCATION.—

''(1) RELATION TO CORRESPONDENCE COURSES.—

''(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered principally through

distance education and leads to a recognized certificate, or associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

"(B) EXCEPTION.—An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that distance education results in a substantially reduced cost of attendance to such student.

"(3) SPECIAL RULE.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satis-

faction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

"(4) DEFINITION.—In this subsection, the term 'distance education' has the meaning given the term in section 102."; and

(3) in subsection (r)—

(A) in the matter preceding the table, by inserting "of a controlled substance, while such student is enrolled in an institution of higher education and receiving financial assistance under this title," after "the possession";

(B) in the column heading of the first table, by inserting "**while the student is enrolled in an institution of higher education and receiving financial assistance under this title**" after "**possession of a controlled substance**"; and

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(2) INTERACTION WITH FAFSA.—The Secretary shall not require a student to provide information regarding the student's possession of a con-

trolled substance on the Free Application for Federal Student Aid described in section 483(a).''.

**SEC. 7435. STATUTE OF LIMITATIONS AND STATE COURT JUDGMENTS.**

Section 484A (20 U.S.C. 1091a) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) in collecting any obligation arising from a loan made under part E of this title, an institution of higher education that has an agreement with the Secretary pursuant to section 463(a) shall not be subject to a defense raised by any borrower based on a claim of infancy.''; and

(2) by adding at the end the following:

''(d) SPECIAL RULE.—This section shall not apply in the case of a student who is deceased or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this title , including interest

paid on the student's behalf, collection costs, or other charges specified in this title.''.

**SEC. 7436. INSTITUTIONAL REFUNDS.**

Section 484B (20 U.S.C. 1091B) is amended—

(1) in subsection (a)—

(A) in the matter preceding clause (i) of paragraph (2)(A), by striking ''a leave of'' and inserting ''1 or more leaves of''; and

(B) in paragraph (3)(C)(i), by striking ''grant or loan assistance under this title'' and inserting ''grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,'';

(2) in subsection (b), by adding at the end the following:

''(4) TIME FRAME.—Not later than 45 days after the date of an institution's determination that a student withdrew from the institution, the institution shall—

''(A) return the amount required under paragraph (1);

''(B) notify the student of the applicable requirements regarding the overpayment of grant and loan assistance and

"(C) notify the student of the student's eligibility for post-withdrawal disbursements.";

(3) in subsection (c)(2), by striking "may determine the appropriate withdrawal date." and inserting "may determine—

(A) the appropriate withdrawal date; and

"(B) that the requirements of this section do not apply to the student."; and

(4) in subsection (d)(2), by striking "clock hours—" and all that follows through the period and inserting "clock hours scheduled to be completed by the student in that period as of the day the student withdrew.".

**SEC. 7437. INSTITUTIONAL AND FINANCIAL ASSISTANCE FOR STUDENTS.**

Section 485 (20 U.S.C. 1092) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (N), by striking "and" after the semicolon;

(ii) in subparagraph (O), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

"(P) student body diversity at the institution, including information on the percentage of enrolled, full-time students who are—

"(i) male;

"(ii) female;

"(iii) from a low-income background; and

"(iv) a self-identified member of a major racial or ethnic group;

"(Q) the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources; and

"(R) the types of graduate and professional education in which graduates of the institution's 4-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources.";

(B) by striking paragraph (4) and inserting the following:

"(4) For purposes of this section, institutions may—

"(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, the institution may recalculate the completion or graduation rates of such students by excluding from the calculation described in paragraph (3) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government."; and

(C) by adding at the end the following:

"(7) The information disclosed under subparagraph (L) of paragraph (1), or reported under subsection (e), shall include information disaggregated by gender, by each

major racial and ethnic subgroup, and by low-income background status as measured by Federal Pell Grant eligibility, if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and reporting would not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.'';

(2) in subsection (b), by adding at the end the following:

''(3) Each eligible institution shall, during the exit interview required by this subsection, provide to a borrower of a loan made under part B, D, or E a clear and conspicuous notice describing the general effects of using a consolidation loan to discharge the borrower's student loans, including—

''(A) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

''(B) the effects of consolidation on a borrower's underlying loan benefits, including loan forgiveness, cancellation, and deferment;

"(C) the ability for the borrower to prepay the loan, pay on a shorter schedule, and to change repayment plans, and that borrower benefit programs may vary among different loan holders;

"(D) the tax benefits for which the borrower may be eligible; and

"(E) the consequences of default.";

(3) in subsection (d)(2)—

(A) by inserting "grant assistance, as well as State" after "describing State"; and

(B) by inserting "and other means, including through the Internet" before the period at the end;

(4) in subsection (e), by striking paragraph (3) and inserting the following:

"(3) For purposes of this subsection, institutions may—

"(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, the institution may calculate the completion or graduation rates of such students by excluding from the calculations described in paragraph (1) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.";

(5) in the matter preceding subparagraph (A) of subsection (f)(1), by inserting ", other than a foreign institution of higher education," after "under this title"; and

(6) by adding at the end the following:

"(h) TRANSFER OF CREDIT POLICIES.—

"(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall publicly disclose in a readable and comprehensible manner the institution's transfer of credit policies which shall include a statement of the institution's current transfer of credit policies that includes, at a minimum—

"(A) a statement that transfer of credit shall not be denied solely on the basis of the agency or association that accredited such other institution of higher education, if that agency or association is recognized by the Secretary pursuant to section 496 to be a reliable authority as to the quality of the education or training offered;

"(B) a list of institutions of higher education with which the institution has established an articulation agreement; and

"(C) the percentage of students at the institution who successfully transfer academic credits, updated on an annual basis.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

"(B) limit the application of the General Education Provisions Act; or

"(C) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.".

**SEC. 7438. NATIONAL STUDENT LOAN DATA SYSTEM.**

Section 485B(a) (20 U.S.C. 1092b(a)) is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively;

(2) in paragraph (5) (as added by Public Law 101–610), by striking "effectiveness." and inserting "effectiveness;"; and

(3) by redesignating paragraph (5) (as added by Public Law 101–234) as paragraph (6).

**SEC. 7439. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by inserting after section 485C (20 U.S.C. 1092c) the following:

**"SEC. 485D. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY.**

"(a) IN GENERAL.—The Secretary shall implement, in cooperation with States, institutions of higher education, secondary schools, middle schools, early intervention and outreach programs under this title, other agencies and organizations involved in student financial assist-

ance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsections (b) and (c).

"(b) COMMUNICATION OF AVAILABILITY OF AID AND AID ELIGIBILITY.—

"(1) STUDENTS WHO RECEIVE BENEFITS.—The Secretary shall—

"(A) make special efforts to notify students who receive or are eligible to receive benefits under Federal means-tested benefit programs (including the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and other such programs as determined by the Secretary) of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

"(B) disseminate such informational materials as the Secretary determines necessary.

"(2) MIDDLE SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, middle schools, and programs under this title that serve middle school students, shall make special efforts to notify students and their parents of the availability of financial aid under this title and, in accordance with subsection (c), shall provide nonbinding estimates of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in middle school.

"(3) SECONDARY SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this title that serve secondary school students, shall make special efforts to notify students in secondary school and their parents, as early as possible but not later than such students' junior year of secondary school, of the

availability of financial aid under this title and, in accordance with subsection (c), shall provide nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

"(4) ADULT LEARNERS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 480(d), with information regarding the availability of financial aid under this title and, in accordance with subsection (c), with nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information—

"(A) is as accurate as possible;

"(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 480(d); and

"(C) uses dissemination mechanisms suitable for adult learners.

"(5) PUBLIC AWARENESS CAMPAIGN.—Not later than 2 years after the date of enactment of the Higher Education Amendments of 2005, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this title, other agencies and organizations involved in student financial aid, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this title and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio and the Internet. The Secretary shall design and implement the public

1 awareness campaign based upon relevant inde-
2 pendent research and the information and dissemi-
3 nation strategies found most effective in imple-
4 menting paragraphs (1) through (4).

5 ''(c) AVAILABILITY OF NONBINDING ESTIMATES OF
6 FEDERAL FINANCIAL AID ELIGIBILITY.—

7 ''(1) IN GENERAL.—The Secretary, in coopera-
8 tion with States, institutions of higher education,
9 and other agencies and organizations involved in stu-
10 dent financial aid, shall provide, via a printed form
11 and the Internet or other electronic means, the capa-
12 bility for individuals to determine easily, by entering
13 relevant data, nonbinding estimates of amounts of
14 grant and loan aid an individual may be eligible for
15 under this title upon completion and processing of
16 an application and enrollment in an institution of
17 higher education.

18 ''(2) DATA ELEMENTS.—The Secretary, in co-
19 operation with States, institutions of higher edu-
20 cation, and other agencies and organizations in-
21 volved in student financial aid, shall determine the
22 data elements that are necessary to create a sim-
23 plified form that individuals can use to obtain easily
24 nonbinding estimates of the amounts of grant and

loan aid an individual may be eligible for under this title.

"(3) QUALIFICATION TO USE SIMPLIFIED APPLICATION.—The capability provided under this paragraph shall include the capability to determine whether the individual is eligible to submit a simplified application form under paragraph (2)(B) or (3)(B) of section 483(a).".

**SEC. 7440. COLLEGE ACCESS INITIATIVE.**

Part G of title IV (20 U.S.C. 1088 et seq.) is further amended by inserting after section 485D (as added by section 7439) the following:

**"SEC. 485E. COLLEGE ACCESS INITIATIVE.**

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet Web links and access for students and families to a comprehensive listing of the postsecondary education opportunities programs, publications, Internet Web sites, and other services available in the States for which such agency serves as the designated guarantor.

"(b) GUARANTY AGENCY ACTIVITIES.—

"(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity, necessary to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner prescribed by the Secretary.

"(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall require a guaranty agency to duplicate any efforts currently underway that meet the requirements of this subsection.

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

"(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Amendments Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

**SEC. 7441. PROGRAM PARTICIPATION AGREEMENTS.**

Section 487 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) in paragraph (23), by adding at the end the following:

''(D) An institution shall be considered in compliance with the requirements of subparagraph (A) for any student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted solely to voter registration.''; and

(B) by adding at the end the following:

''(24) The institution will, as calculated in accordance with subsection (g)(1), have not less than 10 percent of its revenues from sources other than funds provided under this title, or will be subject to the sanctions described in subsection (g)(2).'';

(2) in subsection (c)(1)(A)(i), by inserting '', except that the Secretary may modify the requirements of this clause with regard to an institution outside the United States'' before the semicolon at the end;

(3) by redesignating subsections (d) and (e) as subsection (e) and (f), respectively;

(4) by inserting after subsection (c) the following:

"(d) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

"(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action for termination under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 496(c)(4), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

"(2) TEACH-OUT PLAN DEFINED.—In this subsection, the term 'teach-out plan' means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the

institution's accrediting agency or association, an agreement between institutions for such a teach-out plan."; and

(5) by adding at the end the following:

"(g) IMPLEMENTATION OF NONTITLE IV REVENUE REQUIREMENT.—

"(1) CALCULATION.—In carrying out subsection (a)(24), an institution shall use the cash basis of accounting and count the following funds as from sources of funds other than funds provided under this title:

"(A) Funds used by students from sources other than funds received under this title to pay tuition, fees, and other institutional charges to the institution, provided the institution can reasonably demonstrate that such funds were used for such purposes.

"(B) Funds used by the institution to satisfy matching-fund requirements for programs under this title.

"(C) Funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under the Internal Revenue Code of 1986.

"(D) Funds paid by a student, or on behalf of a student by a party other than the institution, to the institution for an education or training program that is not eligible for funds under this title, provided that the program is approved or licensed by the appropriate State agency or an accrediting agency recognized by the Secretary.

"(E) Funds generated by the institution from institutional activities that are necessary for the education and training of the institution's students, if such activities are—

"(i) conducted on campus or at a facility under the control of the institution;

"(ii) performed under the supervision of a member of the institution's faculty; and

"(iii) required to be performed by all students in a specific educational program at the institution.

"(F) Institutional aid, as follows:

"(i) In the case of loans made by the institution, only the amount of loan repayments received by the institution during

the fiscal year for which the determination is made.

"(ii) In the case of scholarships provided by the institution, only those scholarship funds provided by the institution that are—

"(I) in the form of monetary aid based upon the academic achievements or financial need of students; and

"(II) disbursed during the fiscal year for which the determination is made from an established restricted account and only to the extent that the funds in that account represent designated funds from an outside source or income earned on those funds.

"(iii) In the case of tuition discounts, only those tuition discounts based upon the academic achievement or financial need of students.

"(2) SANCTIONS.—

"(A) FAILURE TO MEET REQUIREMENT FOR 1 YEAR.—In addition to such other means

of enforcing the requirements of this title as may be available to the Secretary, if an institution fails to meet the requirements of subsection (a)(24) in any year, the Secretary may impose 1 or both of the following sanctions on the institution:

"(i) Place the institution on provisional certification in accordance with section 498(h) until the institution demonstrates, to the satisfaction of the Secretary, that it is in compliance with subsection (a)(24).

"(ii) Require such other increased monitoring and reporting requirements as the Secretary determines necessary until the institution demonstrates, to the satisfaction of the Secretary, that it is in compliance with subsection (a)(24).

"(B) FAILURE TO MEET REQUIREMENT FOR 2 YEARS.—An institution that fails to meet the requirements of subsection (a)(24) for 2 consecutive years shall be ineligible to participate in the programs authorized under this title.

"(3) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary shall make publicly available, through the means described in subsection (b) of section 131, any institution that fails to meet the requirements of subsection (a)(24) in any year as an institution that is failing to meet the minimum non-Federal source of revenue requirements of such subsection (a)(24).".

**SEC. 7442. REGULATORY RELIEF AND IMPROVEMENT.**

Section 487A(b) (20 U.S.C. 1094a(b)) is amended—

(1) in paragraph (1)–

(A) by striking "1998" and inserting "2005" ; and

(B) by striking "1999" and inserting "2006"; and

(2) by striking the matter preceding paragraph (2)(A) and inserting the following:

"(2) REPORT.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking ''Upon the submission of the report required by paragraph (2), the'' and inserting ''The''; and

(ii) by inserting ''periodically'' after ''authorized to'';

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as redesignated by subparagraph (C))—

(i) by inserting '', including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 492,'' after ''requirements in this title''; and

(ii) by inserting ''(other than an award rule related to an experiment in

modular or compressed schedules)'' after ''award rules''; and

(iii) by inserting ''unless the waiver of such provisions is authorized by another provision under this title'' before the period at the end.

**SEC. 7443. TRANSFER OF ALLOTMENTS.**

Section 488 (20 U.S.C. 1095) is amended in the first sentence—

(1) in paragraph (1), by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking ''413D.'' and inserting ''413D; and''; and

(3) by adding at the end ''(3) transfer 25 percent of the institution's allotment under section 413D to the institution's allotment under section 442.''.

**SEC. 7444. WAGE GARNISHMENT REQUIREMENT.**

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking ''10 percent'' and inserting ''15 percent''.

**SEC. 7445. PURPOSE OF ADMINISTRATIVE PAYMENTS.**

Section 489(b) (20 U.S.C. 1096(b)) is amended by striking ''offsetting the administrative costs of'' and inserting ''administering''.

**SEC. 7446. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.**

Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

''(i) of their eligibility for assistance under this title; and

''(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance; and

''(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of

need-based student assistance available to low- and moderate-income students.'';

(2) in subsection (c), by adding at the end the following:

''(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon confirmation of the member by the Senate and publication of such appointment in the Congressional Record.''.

(3) in subsection (d)(6), by striking '', but nothing'' and all that follows through ''or analyses'';

(4) in subsection (j)—

(A) in paragraph (1)—

(i) by inserting ''and simplification'' after ''modernization'' each place the term appears; and

(ii) by striking ''including'' and all that follows through ''Department,''; and

(B) by striking paragraphs (4) and (5) and inserting the following:

''(4) conduct a review and analysis of regulations in accordance with subsection (l); and

''(5) conduct a study in accordance with subsection (m).'';

(5) in subsection (k), by striking ''2004'' and inserting ''2010''; and

(6) by adding at the end the following:

"(l) REVIEW AND ANALYSIS OF REGULATIONS.—

"(1) RECOMMENDATIONS.—The Advisory Committee shall make recommendations to the Secretary and Congress for consideration of future legislative action regarding redundant or outdated regulations under this title, consistent with the Secretary's requirements under section 498B.

"(2) REVIEW AND ANALYSIS OF REGULATIONS.—The Advisory Committee shall conduct a review and analysis of the regulations issued under this title that are in effect at the time of the review and that apply to the operations or activities of participants in the programs assisted under this title. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the 2 most recent award years prior to the date of enactment of the Higher Education Amendments

of 2005 less than $200,000 in funds through this title, may be improved, streamlined, or eliminated.

"(3) CONSULTATION.—

"(A) IN GENERAL.—In carrying out the review and analysis under paragraph (2), the Advisory Committee shall consult with the Secretary, relevant representatives of institutions of higher education, and individuals who have expertise and experience with the regulations issued under this title, in accordance with subparagraph (B).

"(B) REVIEW PANELS.—The Advisory Committee shall convene not less than 2 review panels of representatives of the groups involved in student financial assistance programs under this title who have experience and expertise in the regulations issued under this title to review the regulations under this title, and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related

to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

"(4) REPORTS TO CONGRESS.—The Advisory Committee shall submit, not later than 2 years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Amendments of 2005, a report to the authorizing committees and the Secretary detailing the expert panels' findings and recommendations with respect to the review and analysis under paragraph (2).

"(5) ADDITIONAL SUPPORT.—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review required by this subsection.

"(m) STUDY OF INNOVATIVE PATHWAYS TO BACCALAUREATE DEGREE ATTAINMENT.—

"(1) STUDY REQUIRED.—The Advisory Committee shall conduct a study of the feasibility of in-

creasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

"(2) SCOPE OF STUDY.—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow 2-year institutions of higher education to offer baccalaureate degrees.

"(3) REQUIRED ASPECTS OF THE STUDY.—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

"(A) The impact of such programs on baccalaureate attainment rates.

"(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

"(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

"(D) The ways in which nontraditional students can be specifically targeted by such programs.

"(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In performing the study described in this subsection the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual enrollment programs, and appropriate officials from the Department.

"(B) CONGRESSIONAL CONSULTATION.—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this section.

"(5) REPORTS TO CONGRESS.—

"(A) INTERIM REPORT.—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary 1 interim report, not later than 1 year after the

date of enactment of the Higher Education Amendments of 2005, describing the progress that has been made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

"(B) FINAL REPORT.—The Advisory Committee shall, not later than 3 years after the date of enactment of the Higher Education Amendments of 2005, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).".

**SEC. 7447. REGIONAL MEETINGS.**

Section 492(a)(1) (20 U.S.C. 1098a(a)(1)) is amended by inserting "State student grant agencies," after "institutions of higher education,".

**SEC. 7448. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT.**

(a) REPEAL.—Section 493A (20 U.S.C. 1098c) is repealed.

(b) REDESIGNATION.—Section 493B (20 U.S.C. 1098d) is redesignated as section 493A.

## Subchapter H—Program Integrity

### SEC. 7451. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.

Section 496 (200 U.S.C. 1099b) is amended—

(1) in subsection (a)—

(A) by striking paragraph (4) and inserting the following:

"(4)(A) such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered; and

"(B) if such agency or association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education, such agency or association shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that—

"(i) the agency or association's standards effectively address the quality of an institution's distance education in the areas identified in section 496(a)(5), except that the agency or association shall not be required to have separate standards, procedures or policies for the evaluation of distance education institutions or programs in order to meet the requirements of this subparagraph; and

"(ii) the agency or association requires an institution that offers distance education to have processes through which the institution establishes that the student who registers in a distance education course or program is the same student who participates, completes and receives the academic credit;";

(B) in paragraph (5), by striking subparagraph (A) and inserting the following:

"(A) success with respect to student achievement in relation to the institution's mission, including—

"(i) consideration of student academic achievement as determined by the institution;

"(ii) student retention;

"(iii) course and program completion;

"(iv) as appropriate, State licensing examinations;

"(v) as appropriate, job placement rates or enrollment in graduate or professional programs; and

"(vi) as appropriate, other student performance information selected by the institution, particularly that information used by the institution to evaluate or strengthen its programs;";

(C) by striking paragraph (6) and inserting the following:

"(6) such an agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings which comply with due process procedures that provide for—

"(A) adequate specification of requirements and deficiencies at the institution of higher education or program examined;

"(B) an opportunity for a written response by any such institution to be included, prior to final action, in the evaluation and withdrawal proceedings;

"(C) upon the written request of an institution, an opportunity for the institution to appeal any adverse action, including denial, withdrawal, suspension, or termination of accreditation, or placement on probation of an institution, at a hearing prior to such action becoming final, before an appeals panel that—

"(i) shall not include current members of the agency or association's underlying decision-making body that made the adverse decision; and

"(ii) is subject to a conflict of interest policy; and

"(D) the right to representation by counsel for such an institution during an appeal of the adverse action;"; and

(D) by striking paragraph (8) and inserting the following:

"(8) such agency or association shall make available to the public and the State licensing or authorizing agency, and submit to the Secretary, a summary of agency or association actions, including—

"(A) the award of accreditation or reaccreditation of an institution;

"(B) final denial, withdrawal, suspension, or termination of accreditation, or placement on probation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and

"(C) any other adverse action taken with respect to an institution."; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting ", including those regarding distance education" after "their responsibilities";

(B) by redesignating paragraphs (2) through (6) as paragraphs (5) through (9);

(C) by inserting after paragraph (1) (as amended by subparagraph (A)) the following:

"(2) ensures that the agency or association's on-site evaluation for accreditation or reaccreditation includes review of the Federally required information the institution or program provides its current and prospective students;

"(3) monitors the growth of programs at institutions that are experiencing significant enrollment growth;

"(4) requires an institution to submit a teach-out plan for approval to the accrediting agency upon the occurrence of any of the following events:

"(A) The Department notifies the accrediting agency of an action against the institution pursuant to section 487(d).

"(B) The accrediting agency acts to withdraw, terminate, or suspend the accreditation of an institution.

"(C) The institution notifies the accrediting agency that the institution intends to cease operations.";

(D) in paragraph (8) (as redesignated by subparagraph (B)), by striking "and" after the semicolon;

(E) in subparagraph (9) (as redesignated by subparagraph (B)), by striking the period and inserting "; and"; and

(F) by adding at the end the following:

"(10) confirms, as a part of the agency or association's review for accreditation or reaccreditation, that the institution has transfer of credit policies—

"(A) that are publicly disclosed;

"(B) that do not deny transfer of credit based solely on the accreditation of the sending

institution, if the agency or association accrediting the sending institution is recognized by the Secretary pursuant to this section; and

"(C) in which acceptance or denial of transfer of credit is decided according to criteria established in guidelines developed by the institution's admissions committee.".

**SEC. 7452. ADMINISTRATIVE CAPACITY STANDARD.**

Section 498 (20 U.S.C. 1099c) is amended—

(1) in subsection (d)(1)(B), by inserting "and" after the semicolon; and

(2) by adding at the end the following:

"(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL LOCATIONS.—

"(1) IN GENERAL.—A location of a closed institution of higher education shall be eligible as an additional location of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, for the purposes of a teach-out, if such teach-out has been approved by the institution's accrediting agency.

"(2) SPECIAL RULE.—An institution of higher education that conducts a teach-out through the establishment of an additional location described in paragraph (1) shall be permitted to establish a per-

manent additional location at a closed institution and shall not be required—

"(A) to meet the requirements of sections 102(b)(1)(E) and 102(c)(1)(C) for such additional location; or

"(B) to assume the liabilities of the closed institution.".

**SEC. 7453. PROGRAM REVIEW AND DATA.**

Section 498A(b) (20 U.S.C. 1099c–1(b)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report and relevant materials related to the report before any final program review is reached;

"(7) review and take into consideration an institution of higher education's response in any final program review; and

"(8) maintain and preserve at all times the confidentiality of any program review report until the

requirements of paragraphs (6) and (7) are met, and until a final program review is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports to the institution of higher education under review.''.

## CHAPTER 6—DEVELOPING INSTITUTIONS

**SEC. 7501. DEFINITIONS.**

Section 502(a) (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

**SEC. 7502. AUTHORIZED ACTIVITIES.**

Section 503(b) (20 U.S.C. 1101b(b)) is amended—

(1) by redesignating paragraphs (6) through (14) as paragraphs (8) through (16), respectively;

(2) in paragraph (5), by inserting '', including innovative, customized remedial education and English language instruction courses designed to help retain students and move the students rapidly

into core courses and through program completion'' before the period at the end; and

(3) by inserting after paragraph (5) the following:

''(6) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.

''(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.''.

**SEC. 7503. DURATION OF GRANT.**

Section 504(a) (20 U.S.C. 1101c(a)) is amended to read as follows:

''(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.''.

**SEC. 7504. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.**

(a) ESTABLISHMENT OF PROGRAM.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

## "PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

### "SEC. 511. PROGRAM AUTHORITY AND ELIGIBILITY.

''(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award grants, on a competitive basis, to eligible institutions to enable the eligible institutions to carry out the authorized activities described in section 512.

''(b) ELIGIBILITY.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

''(1) is a Hispanic-serving institution (as defined in section 502); and

''(2) offers a postbaccalaureate certificate or degree granting program.

### "SEC. 512. AUTHORIZED ACTIVITIES.

''Grants awarded under this part shall be used for 1 or more of the following activities:

''(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

''(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase

or rental of telecommunications technology equipment or services.

"(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

"(4) Support for needy postbaccalaureate students, including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance, to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

"(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

"(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

"(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

"(8) Other activities proposed in the application submitted pursuant to section 513 that are approved

by the Secretary as part of the review and acceptance of such application.

**"SEC. 513. APPLICATION AND DURATION.**

''(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students' greater financial independence.

''(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

''(c) LIMITATION.—The Secretary may not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.''.

**SEC. 7505. APPLICATIONS.**

Section 521(b)(1)(A) (as redesignated by section 7504(a)(2)) (20 U.S.C. 1103(b)(1)(A)) is amended by striking ''subsection (b)'' and inserting ''subsection (c)''.

**SEC. 7506. COOPERATIVE ARRANGEMENTS.**

Section 524(a) (as redesignated by section 7504(a)(2)) (20 U.S.C. 1103c(a)) is amended by striking ''section 503'' and inserting ''sections 503 and 512''.

**SEC. 7507. AUTHORIZATION OF APPROPRIATIONS.**

Section 528(a) (as redesignated by section 7504(a)(2)) (20 U.S.C. 1103g(a)) is amended—

(1) by inserting ''part A of'' after ''carry out'';

(2) by striking ''$62,500,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.'';

(3) by striking ''(a) AUTHORIZATIONS.—There are'' and inserting the following:

''(a) AUTHORIZATIONS.—

''(1) PART A.—There are''; and

(4) by adding at the end the following:

''(2) PART B.—There are authorized to be appropriated to carry out part B of this title such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

# CHAPTER 7—INTERNATIONAL EDUCATION PROGRAMS

**SEC. 7601. FINDINGS.**

Section 601 (20 U.S.C. 1121) is amended—

(1) in the section heading, by striking ''**AND PURPOSES**'' and inserting ''**; PURPOSES; CONSULTATION; SURVEY**''

(2) in subsection (a)(3), by striking ''post-Cold War'';

(3) in subsection (b)(1)(D), by inserting '', including through linkages with overseas institutions'' before the semicolon; and

(4) by adding at the end the following:

''(c) CONSULTATION.—The Secretary shall, prior to requesting applications for funding under this title during each grant cycle, consult with and receive recommendations regarding national need for expertise in foreign languages and world regions from the head official, or a designee of such head official, of the National Security Council, the Department of Homeland Security, the Department of Defense, the Department of State, the Federal Bureau of Investigation, the Department of Labor, and the Department of Commerce, the Director of National Intelligence, and other relevant agencies. These entities shall provide information to the Secretary regarding how the entities utilize expertise and resources provided by grantees under this title. The Secretary shall take into account such recommendations and information when requesting applications for funding under this title, and shall make available to applicants a list of areas identified as areas of national need.

"(d) SURVEY.—The Secretary shall assist grantees in developing a survey to administer to students who have participated in programs under this title to determine postparticipation placement. All grantees, where applicable, shall administer such survey not less often than annually and report such data to the Secretary.".

**SEC. 7602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.**

Section 602 (20 U.S.C. 1122) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (G), by striking "and" after the semicolon;

(ii) in subparagraph (H), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(I) support for instructors of the less commonly taught languages."; and

(B) in paragraph (4)—

(i) by redesignating subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively;

(ii) by inserting after subparagraph (B) the following:

"(C) Programs of linkage or outreach between or among—

"(i) foreign language, area studies, or other international fields; and

"(ii) State educational agencies or local educational agencies."; and

(iii) in subparagraph (F) (as redesignated by clause (i)), by striking "and (D)" and inserting "(D), and (E)";

(2) in subsection (b)—

(A) in the subsection heading, by striking "GRADUATE"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ELIGIBLE STUDENTS.—A student receiving a stipend described in paragraph (1) shall be engaged—

"(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

"(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

"(ii) in the case of a graduate student, in graduate study in connection with a program described in subparagraph (A), including—

"(I) predissertation level study;

"(II) preparation for dissertation research;

"(III) dissertation research abroad; or

"(IV) dissertation writing.";

(3) by striking subsection (d) and inserting the following:

"(d) ALLOWANCES.—

"(1) GRADUATE LEVEL RECIPIENTS.—A stipend awarded to a graduate level recipient may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) UNDERGRADUATE LEVEL RECIPIENTS.—A stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that—

"(A) are closely linked to the overall goals of the recipient's course of study; and

"(B) have the purpose of promoting foreign language fluency and knowledge of foreign cultures."; and

(4) by adding at the end the following:

"(e) APPLICATION.—Each institution or combination of institutions desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each application shall include an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs. Each application shall also describe how the applicant will address disputes regarding whether activities funded under the application reflect diverse perspectives and a wide range of views. Each application shall also include a description of how the applicant will encourage government service in areas of national need as identified by the Secretary.".

**SEC. 7603. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.**

Section 604 (20 U.S.C. 1124) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (I) through (M) as subparagraphs (J) through (N), respectively; and

(ii) by inserting after subparagraph (H) the following:

''(I) providing subgrants to undergraduate students for educational programs abroad that—

''(i) are closely linked to the overall goals of the program for which the grant is awarded; and

''(ii) have the purpose of promoting foreign language fluency and knowledge of foreign cultures;''; and

(B) in paragraph (7)—

(i) in subparagraph (C), by striking ''and'' after the semicolon;

(ii) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(E) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate

debate on world regions and international affairs, where applicable;

"(F) a description of how the applicant will address disputes regarding whether the activities funded under the application reflect diverse perspectives and a wide range of views; and

"(G) a description of how the applicant will encourage government service in areas of national need as identified by the Secretary."; and

(2) in subsection (c)—

(A) by striking "FUNDING SUPPORT.—The Secretary" and inserting "FUNDING RULES.—"(1) THE SECRETARY.—The Secretary";

(B) by striking "10" and inserting "20"; and

(C) by adding at the end the following:

"(2) GRANTEES.—Of the total amount of grant funds awarded to a grantee under this section, the grantee may use not more than 10 percent of such funds for the activity described in subsection (a)(2)(I).".

**SEC. 7604. RESEARCH; STUDIES.**

Section 605(a) (20 U.S.C. 1125(a)) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(10) evaluation of the extent to which programs assisted under this title reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs;

''(11) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of this part; and

''(12) support for programs or activities to make data collected, analyzed, or disseminated under this section publicly available and easy to understand.''.

**SEC. 7605. TECHNOLOGICAL INNOVATION AND COOPERATION FOR FOREIGN INFORMATION ACCESS.**

Section 606 (20 U.S.C. 1126) is amended—

(1) in subsection (a)—

(A) by striking ''new electronic technologies'' and insert ''electronic technologies'';

(B) by inserting ''from foreign sources'' after ''disseminate information'';

(C) by striking ''AUTHORITY.—The Secretary'' and insert ''AUTHORITY.—

''(1) IN GENERAL.—The Secretary''; and

(D) by adding at the end the following:

''(2) PARTNERSHIPS WITH NOT-FOR-PROFIT EDUCATIONAL ORGANIZATIONS.—The Secretary may award grants under this section to carry out the activities authorized under this section to the following:

''(A) An institution of higher education.

''(B) A public or nonprofit private library.

''(C) A consortium of an institution of higher education and 1 or more of the following:

''(i) Another institution of higher education.

''(ii) A library.

''(iii) A not-for-profit educational organization.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''to facilitate access to'' and inserting ''to acquire, facilitate access to,'';

(B) in paragraph (2), by inserting ''or standards for'' after ''means of'';

(C) in paragraph (6), by striking ''and'' after the semicolon;

(D) in paragraph (7), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

''(8) to establish linkages to facilitate carrying out the activities described in this subsection between—

''(A) the institutions of higher education, libraries, and consortia receiving grants under this section; and

''(B) institutions of higher education, not-for-profit educational organizations, and libraries overseas; and

''(9) to carry out other activities that the Secretary determines are consistent with the purpose of the grants or contracts awarded under this section.''; and

(3) in subsection (c), by striking ''institution or consortium'' and inserting ''institution of higher education, library, or consortium''.

**SEC. 7606. SELECTION OF CERTAIN GRANT RECIPIENTS.**

Section 607 (20 U.S.C. 1127) is amended—

(1) in subsection (a), by striking ''evaluates the applications for comprehensive and undergraduate

language and area centers and programs.'' and inserting ''evaluates—

''(1) the applications for comprehensive foreign language and area or international studies centers and programs; and

''(2) the applications for undergraduate foreign language and area or international studies centers and programs.''; and

(2) in subsection (b), by adding at the end the following: ''The Secretary shall also consider an applicant's record of sending students into public service and an applicant's stated efforts to increase the number of students that go into public service.''.

**SEC. 7607. AMERICAN OVERSEAS RESEARCH CENTERS.**

Section 609 (20 U.S.C. 1128a) is amended by adding at the end the following:

''(e) APPLICATION.—Each center desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each application shall include how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable. Each application shall also describe how the applicant will address

disputes regarding whether the activities funded under the application reflect diverse perspectives and a wide range of views.''.

**SEC. 7608. AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.**

Section 610 (20 U.S.C. 1128b) is amended by striking ''$80,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7609. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.**

Section 612(f) (20 U.S.C. 1130–1(f)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(5) assurances that activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable.''.

**SEC. 7610. EDUCATION AND TRAINING PROGRAMS.**

Section 613(c) (20 U.S.C. 1130a(c)) is amended by adding at the end the following: ''Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.''.

**SEC. 7611. AUTHORIZATION OF APPROPRIATIONS FOR BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.**

Section 614 (20 U.S.C. 1130b) is amended—

(1) in subsection (a), by striking ''$11,000,000 for fiscal year 1999'' and all that follows through ''fiscal years'' and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years''; and

(2) in subsection (b), by striking ''$7,000,000 for fiscal year 1999'' and all that follows through ''fiscal years,'' and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years''.

**SEC. 7612. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.**

Section 621 (20 U.S.C. 1131) is amended—

(1) in subsection (c), by adding at the end the following: ''Each application shall include a descrip-

tion of how the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs, where applicable.''; and

(2) in subsection (e)—

(A) by striking ''MATCH REQUIRED.—The eligible'' and inserting ''MATCHING FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), the eligible''; and

(B) by adding at the end the following:

''(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for an eligible recipient if the Secretary determines such waiver is appropriate.''.

**SEC. 7613. INSTITUTIONAL DEVELOPMENT.**

Section 622 (20 U.S.C. 1131–1) is amended—

(1) in subsection (a)—

(A) by striking ''Tribally Controlled Colleges or Universities'' and inserting ''tribally controlled colleges or universities''; and

(B) by striking ''international affairs programs.'' and inserting ''international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities,

and institutions, respectively, through increased collaboration with institutions of higher education that receive funding under this title.''; and

(2) in subsection (c)—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

**SEC. 7614. STUDY ABROAD PROGRAM.**

Section 623(a) (20 U.S.C. 1131a(a)) is amended—

(1) by striking ''as defined in section 322 of this Act''; and

(2) by striking ''tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978'' and inserting ''tribally controlled colleges or universities''.

**SEC. 7615. ADVANCED DEGREE IN INTERNATIONAL RELATIONS.**

Section 624 (20 U.S.C. 1131b) is amended—

(1) in the section heading, by striking ''**MASTERS**'' and inserting ''**ADVANCED**'';

(2) in the first sentence, by inserting '', and in exceptional circumstances, a doctoral degree,'' after ''masters degree'';

(3) in the second sentence, by striking ''masters degree'' and inserting ''advanced degree''; and

(4) in the fourth sentence, by striking ''United States'' and inserting ''United States.''.

**SEC. 7616. INTERNSHIPS.**

Section 625 (20 U.S.C. 1131c) is amended—

(1) in subsection (a)—

(A) by striking ''as defined in section 322 of this Act'';

(B) by striking ''tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978'' and inserting ''tribally controlled colleges or universities'';

(C) by striking ''an international'' and inserting ''international,''; and

(D) by striking ''the United States Information Agency'' and inserting ''the Department of State''; and

(2) in subsection (c)(1)—

(A) in subparagraph (E), by inserting ''and'' after the semicolon;

(B) in subparagraph (F), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (G).

**SEC. 7617. FINANCIAL ASSISTANCE.**

Part C of title VI (20 U.S.C. 1131 et seq.) is further amended—

(1) by redesignating sections 626, 627, and 628 as sections 627, 628, and 629, respectively; and

(2) by inserting after section 625 the following:

**"SEC. 626. FINANCIAL ASSISTANCE.**

"(a) AUTHORITY.—The Institute may provide financial assistance, in the form of summer stipends described in subsection (b) and Ralph Bunche scholarship assistance described in subsection (c), to needy students to facilitate the participation of the students in the Institute's programs under this part.

"(b) SUMMER STIPENDS.—

"(1) REQUIREMENTS.—A student receiving a summer stipend under this section shall use such stipend to defray the student's cost of participation in a summer institute program funded under this part, including the costs of travel, living, and educational expenses necessary for the student's participation in such program.

"(2) AMOUNT.—A summer stipend awarded to a student under this section shall not exceed $3,000 per summer.

"(c) RALPH BUNCHE SCHOLARSHIP.—

"(1) REQUIREMENTS.—A student receiving a Ralph Bunche scholarship under this section—

"(A) shall be a full-time student at an institution of higher education who is accepted into a program funded under this part; and

"(B) shall use such scholarship to pay costs related to the cost of attendance, as defined in section 472, at the institution of higher education in which the student is enrolled.

"(2) AMOUNT AND DURATION.—A Ralph Bunche scholarship awarded to a student under this section shall not exceed $5,000 per academic year.".

**SEC. 7618. REPORT.**

Section 627 (as redesignated by section 7617(1)) (20 U.S.C. 1131d) is amended by striking "annually" and inserting "biennially".

**SEC. 7619. GIFTS AND DONATIONS.**

Section 628 (as redesignated by section 7617(1)) (20 U.S.C. 1131e) is amended by striking "annual report described in section 626" and inserting "biennial report described in section 627".

**SEC. 7620. AUTHORIZATION OF APPROPRIATIONS FOR THE INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.**

Section 629 (as redesignated by section 7617(1)) (20 U.S.C. 1131f) is amended by striking ''$10,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7621. DEFINITIONS.**

Section 631 (20 U.S.C. 1132) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), as paragraphs (8), (5), (9), (2), (11), (3), (7), and (4), respectively;

(2) in paragraph (2), as redesignated by paragraph (1), by striking ''comprehensive language and area center'' and inserting ''comprehensive foreign language and area or international studies center'';

(3) in paragraph (11), as redesignated by paragraph (1), by striking ''undergraduate language and area center'' and inserting ''undergraduate foreign language and area or international studies center'';

(4) in paragraph (3), as redesignated by paragraph (1), by striking the first occurrence of the term ''critical languages'' and inserting ''critical foreign languages'';

(5) in paragraph (7), as redesignated by paragraph (1), by striking ''and'' after the semicolon;

(6) in paragraph (4), as redesignated by paragraph (1), by striking the period at the end and inserting a semicolon;

(7) by inserting after paragraph (5), as redesignated by paragraph (1), the following:

''(6) the term 'historically Black college and university' has the meaning given the term 'part B institution' in section 322;''; and

(8) by inserting after paragraph (9), as redesignated by paragraph (1), the following:

''(10) the term 'tribally controlled college or university' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801); and''.

**SEC. 7622. ASSESSMENT AND ENFORCEMENT.**

Part D of title VI (20 U.S.C. 1132) is amended by adding at the end the following:

**''SEC. 632. ASSESSMENT; ENFORCEMENT; RULE OF CONSTRUCTION.**

''(a) IN GENERAL.—The Secretary is authorized to assess and ensure compliance with all the conditions and terms of grants provided under this title. If a complaint regarding activities funded under this title is not resolved

under the process outlined in the relevant grantee's application, and such complaint is filed with the Department, the Secretary shall be notified, and is authorized, when circumstances warrant, to immediately suspend future funding for the grant pending resolution of such dispute. Such resolution shall not exceed 60 days. The Secretary shall take the outcomes of such complaints into account when determining the renewal of grants.

''(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to authorize the Secretary to mandate, direct, or control an institution of higher education's specific instructional content, curriculum, or program of instruction.

**''SEC. 633. EVALUATION, OUTREACH, AND INFORMATION.**

''The Secretary may use not more than 1 percent of the funds made available under this title to carry out program evaluation, national outreach, and information dissemination activities relating to the programs authorized under this title.''.

## CHAPTER 8—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

**SEC. 7701. PURPOSE.**

Section 700(1)(B)(i) (20 U.S.C. 1133(1)(B)(i)) is amended by inserting '', including those areas critical to United States national and homeland security needs such

as mathematics, science, and engineering'' before the semicolon at the end.

**SEC. 7702. ALLOCATION OF JACOB K. JAVITS FELLOWSHIPS.**

Section 702(a)(1) (20 U.S.C. 1134a(a)(1)) is amended to read as follows:

''(1) APPOINTMENT.—

''(A) IN GENERAL.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (referred to in this subpart as the 'Board') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board.

''(B) QUALIFICATIONS.—In making appointments under subparagraph (A), the Secretary shall—

''(i) give due consideration to the appointment of individuals who are highly respected in the academic community;

''(ii) assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences;

"(iii) appoint members to represent the various geographic regions of the United States; and

"(iv) include representatives from minority institutions, as defined in section 365.".

**SEC. 7703. STIPENDS.**

Section 703(a) (20 U.S.C. 1134b(a)) is amended by striking "graduate fellowships" and inserting "Graduate Research Fellowship Program".

**SEC. 7704. AUTHORIZATION OF APPROPRIATIONS FOR THE JACOB K. JAVITS FELLOWSHIP PROGRAM.**

Section 705 (20 U.S.C. 1134d) is amended by striking "$30,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years to carry out this subpart.".

**SEC. 7705. INSTITUTIONAL ELIGIBILITY UNDER THE GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED PROGRAM.**

Section 712(b) (20 U.S.C. 1135a(b)) is amended to read as follows:

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with appropriate Federal and nonprofit agencies and organizations, including the Na-

tional Science Foundation, the Department of Defense, the Department of Homeland Security, the National Academy of Sciences, and the Bureau of Labor Statistics, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

"(1) the extent to which the interest in the area is compelling;

"(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned;

"(3) an assessment of how the program may achieve the most significant impact with available resources; and

"(4) an assessment of current and future professional workforce needs of the United States.".

**SEC. 7706. AWARDS TO GRADUATE STUDENTS.**

Section 714 (20 U.S.C. 1135c) is amended—

(1) in subsection (b)—

(A) by striking "1999–2000" and inserting "2006–2007"; and

(B) by striking "graduate fellowships" and inserting "Graduate Research Fellowship Program"; and

(2) in subsection (c)—

(A) by striking ''716(a)'' and inserting ''715(a)''; and

(B) by striking ''714(b)(2)'' and inserting ''713(b)(2)''.

**SEC. 7707. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.**

Section 715(a)(1) (20 U.S.C. 1135d(a)(1)) is amended—

(1) by striking ''1999–2000'' and inserting ''2006–2007''; and

(2) by striking ''1998–1999'' and inserting ''2005–2006''.

**SEC. 7708. AUTHORIZATION OF APPROPRIATIONS FOR THE GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED PROGRAM.**

Section 716 (20 U.S.C. 1135e) is amended by striking ''$35,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years to carry out this subpart.''.

**SEC. 7709. AUTHORIZATION OF APPROPRIATIONS FOR THE THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.**

Section 721(h) (20 U.S.C. 1136(h)) is amended by striking ''$5,000,000 for fiscal year 1999'' and all that

follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7710. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.**

Section 741(a) (20 U.S.C. 1138(a)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts based on the technology of communications, including those efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations);'';

(2) in paragraph (7), by striking ''and'' after the semicolon;

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

(4) by adding at the end the following:

''(9) the introduction of reforms in remedial education, including English language instruction, to customize remedial courses to student goals and help

students progress rapidly from remedial courses into core courses and through program completion;

''(10) the creation of consortia that join diverse institutions of higher education for the purpose of integrating curricular and co-curricular interdisciplinary study; and

''(11) providing support and assistance to programs implementing integrated education reform services in order to improve secondary school graduation and college attendance and completion rates for disadvantaged students.''.

**SEC. 7711. SPECIAL PROJECTS.**

Section 744(c) (20 U.S.C. 1138c) is amended to read as follows:

''(c) AREAS OF NATIONAL NEED.—Areas of national need shall include, at a minimum, the following:

''(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

''(2) Improvements in academic instruction and student learning, including efforts designed to assess the learning gains made by postsecondary students.

''(3) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer

of students from 2- to 4-year institutions of higher education.

"(4) Development, evaluation and dissemination of model programs, including model core curricula that—

"(A) provide students with a broad and integrated knowledge base;

"(B) include, at a minimum, broad survey courses in English literature, American and world history, American political institutions, economics, philosophy, college-level mathematics, and the natural sciences; and

"(C) include sufficient study of a foreign language to lead to reading and writing competency in the foreign language.

"(5) International cooperation and student exchanges among postsecondary educational institutions.".

**SEC. 7712. AUTHORIZATION OF APPROPRIATIONS FOR THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.**

Section 745 (20 U.S.C. 1138d) is amended by striking "$30,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may

be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

**SEC. 7713. REPEAL OF THE URBAN COMMUNITY SERVICE PROGRAM.**

Part C of title VII (20 U.S.C. 1139 et seq.) is repealed.

**SEC. 7714. GRANTS AUTHORIZED FOR DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.**

Section 762 (20 U.S.C. 1140a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''to teach students with disabilities'' and inserting ''to teach and meet the academic and programmatic needs of students with disabilities in order to improve retention and completion of postsecondary education'';

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (F), respectively;

(iii) by inserting after subparagraph (A) the following:

"(B) EFFECTIVE TRANSITION PRACTICES.—The development of innovative and effective teaching methods and strategies to ensure the successful transition of students with disabilities from secondary school to postsecondary education.";

(iv) in subparagraph (C), as redesignated by clause (ii), by striking the period at the end and inserting ", including data on the postsecondary education of and impact on subsequent employment of students with disabilities. Such research, information, and data shall be made publicly available and accessible.";

(v) by inserting after subparagraph (C), as redesignated by clause (ii), the following:

"(D) DISTANCE LEARNING.—The development of innovative and effective teaching methods and strategies to provide faculty and administrators with the ability to provide accessible distance education programs or classes that would enhance access of students with disabilities to higher education, including the use

of accessible curriculum and electronic communication for instruction and advisement.

"(E) DISABILITY CAREER PATHWAYS.—Training and providing support to secondary and postsecondary staff to encourage interest in, enhance awareness and understanding of, provide educational opportunities in, teach practical skills related to, and offer work-based opportunities in, disability related fields, among students, including students with disabilities. Such training and support may include developing means to offer students credit-bearing, college-level coursework, and career and educational counseling."; and

(vi) by adding at the end the following:

"(G) ACCESSIBILITY OF EDUCATION.—Making postsecondary education more accessible to students with disabilities through curriculum development."; and

(B) in paragraph (3), by striking "subparagraphs (A) through (C)" and inserting "subparagraphs (A) through (G)"; and

(2) by adding at the end the following:

"(d) REPORT.—The Secretary shall prepare and disseminate a report reviewing the activities of the demonstration projects authorized under this part and providing guidance and recommendations on how successful projects can be replicated.".

**SEC. 7715. APPLICATIONS FOR DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.**

Section 763 (20 U.S.C. 1140b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) a description of how such institution plans to address the activities allowed under this part;";

(2) in paragraph (2), by striking "and" after the semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(4) a description of the extent to which the institution will work to replicate the research based and best practices of institutions of higher education with demonstrated success in serving students with disabilities.".

**SEC. 7716. AUTHORIZATION OF APPROPRIATIONS FOR THE DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.**

Section 765 (20 U.S.C. 1140d) is amended by striking ''$10,000,000 for fiscal year 1999'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.''.

## CHAPTER 9—MISCELLANEOUS

**SEC. 7801. MISCELLANEOUS.**

The Act (20 U.S.C. 1001 et seq.) is amended by adding at the end the following:

# ''TITLE VIII—MISCELLANEOUS

## ''PART A—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM

**''SEC. 811. MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.**

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to States, on a competitive basis, to enable the States to award eligible students, who complete a rigorous secondary school curriculum in mathematics and science, scholarships for undergraduate study.

''(b) ELIGIBLE STUDENTS.—A student is eligible for a scholarship under this section if the student is a full-time undergraduate student in the student's first and sec-

ond year of study who has completed a rigorous secondary school curriculum in mathematics and science.

"(c) RIGOROUS CURRICULUM.—Each participating State shall determine the requirements for a rigorous secondary school curriculum in mathematics and science described in subsection (b).

"(d) PRIORITY FOR SCHOLARSHIPS.—The Governor of a State may set a priority for awarding scholarships under this section for particular eligible students, such as students attending schools in high-need areas, students who are from groups underrepresented in the fields of mathematics, science, and engineering, students served by local educational agencies that do not meet or exceed State standards in mathematics and science, or students with regional or geographic needs as determined appropriate by the Governor.

"(e) AMOUNT AND DURATION OF SCHOLARSHIP.—The Secretary shall award a grant under this section—

"(1) in an amount that does not exceed $1,000; and

"(2) for not more than 2 years of undergraduate study.

"(f) MATCHING REQUIREMENT.—In order to receive a grant under this section, a State shall provide matching funds for the scholarships awarded under this section in

an amount equal to 50 percent of the Federal funds received.

"(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART B—POSTSECONDARY EDUCATION ASSESSMENT

### "SEC. 821. POSTSECONDARY EDUCATION ASSESSMENT.

"(a) CONTRACT FOR ASSESSMENT.—The Secretary shall enter into a contract, with an independent, bipartisan organization with specific expertise in public administration and financial management, to carry out an independent assessment of the cost factors associated with the cost of tuition at institutions of higher education.

"(b) TIMEFRAME.—The Secretary shall enter into the contract described in subsection (a) not later than 90 days after the date of enactment of the Higher Education Amendments of 2005.

"(c) MATTERS ASSESSED.—The assessment described in subsection (a) shall—

"(1) examine the key elements driving the cost factors associated with the cost of tuition at institutions of higher education during academic year 2000 and succeeding academic years;

"(2) identify and evaluate measures being used to control postsecondary education costs;

"(3) identify and evaluate effective measures that may be utilized to control postsecondary education costs in the future; and

"(4) identify systemic approaches to monitor future postsecondary education cost trends and postsecondary education cost control mechanisms.

## "PART C—JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES

### "SEC. 831. JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to provide relevant job skill training in high-growth industries or occupations.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership—

"(A) between an institution of higher education and a local board (as such term is defined in section 101 of the Workforce Investment Act of 1998); or

"(B) if an institution of higher education is located within a State that does not operate local boards, between the institution of higher education and a State board (as such term is defined in section 101 of the Workforce Investment Act of 1998).

"(2) NONTRADITIONAL STUDENT.—The term 'nontraditional student' means a student who—

"(A) is independent, as defined in section 480(d);

"(B) attends an institution of higher education—

"(i) on less than a full-time basis;

"(ii) via evening, weekend, modular, or compressed courses; or

"(iii) via distance learning methods; or

"(C) has delayed enrollment at an institution of higher education.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education, as defined in section 101(b), that offers a 1- or 2-year program of study leading to a degree or certificate.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of—

"(A) how the eligible partnership, through the institution of higher education, will provide relevant job skill training for students to enter high-growth occupations or industries;

"(B) local high-growth occupations or industries; and

"(C) the need for qualified workers to meet the local demand of high-growth occupations or industries.

"(d) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

"(1) ensure an equitable distribution of grant funds under this section among urban and rural areas of the United States; and

"(2) take into consideration the capability of the institution of higher education—

"(A) to offer relevant, high quality instruction and job skill training for students entering a high-growth occupation or industry;

"(B) to involve the local business community and to place graduates in the community in employment in high-growth occupations or industries;

"(C) to provide secondary students with dual-enrollment or concurrent enrollment options;

"(D) to serve nontraditional or low-income students, or adult or displaced workers; and

"(E) to serve students from rural or remote communities.

"(e) USE OF FUNDS.—Grant funds provided under this section may be used—

"(1) to expand or create academic programs or programs of training that provide relevant job skill training for high-growth occupations or industries;

"(2) to purchase equipment which will facilitate the development of academic programs or programs of training that provide training for high-growth occupations or industries;

"(3) to support outreach efforts that enable students to attend institutions of higher education

with academic programs or programs of training focused on high-growth occupations or industries;

"(4) to expand or create programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant job skill training in high-growth occupations or industries;

"(5) to build partnerships with local businesses in high-growth occupations or industries;

"(6) to support curriculum development related to entrepreneurial training; and

"(7) for other uses that the Secretary determines to be consistent with the intent of this section.

"(f) REQUIREMENTS.—

"(1) FISCAL AGENT.—For the purpose of this section, the institution of higher education in an eligible partnership shall serve as the fiscal agent and grant recipient for the eligible partnership.

"(2) DURATION.—The Secretary shall award grants under this section for periods that may not exceed 5 years.

"(3) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available to the eligible partnership

for carrying out the activities described in subsection (e).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART D—GRANT PROGRAM TO INCREASE STUDENT RETENTION AND PROMOTE ARTICULATION AGREEMENTS

### "SEC. 841. GRANT PROGRAM TO INCREASE STUDENT RETENTION AND PROMOTE ARTICULATION AGREEMENTS.

"(a) AUTHORIZATION OF PROGRAM.—The Secretary shall award grants, on a competitive basis, to eligible institutions to enable the institutions to—

"(1) focus on increasing traditional and non-traditional student retention at such institutions; and

"(2) promote articulation agreements among different institutions that will increase the likelihood of progression of students at such institutions to baccalaureate degrees.

"(b) DEFINITION OF ELIGIBLE INSTITUTION.—In this section, the term 'eligible institution' means an institution of higher education (as defined in section 101(a))

where not less than 40 percent of such institution's student body receives financial aid under subpart 1 of part A of title IV.

"(c) APPLICATION.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including the number of students proposed to be served and a description of the services that will be provided.

"(d) MANDATORY ACTIVITIES.—An eligible institution that receives a grant under this section shall use the grant funds to carry out each of the following:

"(1) Offering counseling and advisement services to help students adapt to postsecondary education and select appropriate coursework.

"(2) Making mentors available to students who are at risk for not completing a degree.

"(3) Providing detailed assistance to students who request help in understanding—

"(A) the options for financing their education, including information on grants, loans, and loan repayment programs;

"(B) the process of applying for financial assistance;

"(C) the outcome of their financial assistance application; and

"(D) any unanticipated problems related to financing their education that arise.

"(4) Offering tutoring to students at risk of dropping out of school with any course or subject.

"(5) Designing and implementing innovative ways to improve retention in and completion of courses, such as enrolling students in cohorts, providing counseling, or creating bridge programs that customize courses to the needs of special population students.

"(6) Conducting outreach activities so that all students know that these services are available and are aware of how to access the services.

"(7) Creating articulation agreements to promote smooth transition from two year to four year programs.

"(8) Making services listed in paragraphs (1) through (5) available in students' native languages, if it is not English, if the percentage of students needing translation services in a specific language exceeds 5 percent.

"(e) PERMISSIBLE ACTIVITIES.—An eligible institution that receives a grant under this section may use grant funds to carry out any of the following activities:

"(1) Designing innovative course schedules to meet the needs of working adults, such as online, modular, compressed, or other alternative methods.

"(2) Offering childcare during the hours when students have class or are studying.

"(3) Providing transportation assistance to students that helps such students manage their schedules.

"(4) Partnering with local businesses to create flexible work-hour programs so that students can balance work and school.

"(5) Offering time management or financial literacy seminars to help students improve their management skills.

"(6) Improving professional development to align instruction with innovative program designs.

"(7) Any other activities the Secretary believes will promote retention of students attending eligible institutions.

"(f) TECHNICAL ASSISTANCE.—The Secretary may enter into a contract with a private entity to provide such

technical assistance to grantees under this section as the Secretary determines appropriate.

"(g) EVALUATION.—The Secretary shall conduct an evaluation of program impacts under the demonstration program, and shall disseminate to the public the findings from the evaluation and information on best practices.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this and such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART E—AMERICAN HISTORY FOR FREEDOM

### "SEC. 851. AMERICAN HISTORY FOR FREEDOM.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to award 3-year grants, on a competitive basis, to eligible institutions to establish or strengthen postsecondary academic programs or centers that promote and impart knowledge of—

"(1) traditional American history;

"(2) the history and nature of, and threats to, free institutions; or

"(3) the history and achievements of Western civilization.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education as defined in section 101.

"(2) FREE INSTITUTION.—The term 'free institution' means an institution that emerged out of Western civilization, such as democracy, constitutional government, individual rights, market economics, religious freedom and religious tolerance, and freedom of thought and inquiry.

"(3) TRADITIONAL AMERICAN HISTORY.—The term 'traditional American history' means—

"(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

"(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution that desires a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) CONTENTS.—Each application submitted under subsection (a) shall include a description of —

"(A) how funds made available under this part will be used for the activities set forth under subsection (e), including how such activities will increase knowledge with respect to traditional American history, free institutions, or Western civilization;

"(B) how the eligible institution will ensure that information about the activities funded under this part is widely disseminated pursuant to subsection (e)(1)(B);

"(C) any activities to be undertaken pursuant to subsection (e)(2)(A), including identification of entities intended to participate;

"(D) how funds made available under this part shall be used to supplement and not supplant non-Federal funds available for the activities described in subsection (e); and

"(E) such fiscal controls and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funding made available to the eligible institution under this part.

"(d) AWARD BASIS.—In awarding grants under this part, the Secretary shall take into consideration the capability of the eligible institution to—

"(1) increase access to quality programming that expands knowledge of traditional American history, free institutions, or Western civilization;

"(2) involve personnel with strong expertise in traditional American history, free institutions, or Western civilization; and

"(3) sustain the activities funded under this part after the grant has expired.

"(e) USE OF FUNDS.—

"(1) REQUIRED USE OF FUNDS.—Funds provided under this part shall be used to—

"(A) establish or strengthen academic programs or centers focused on traditional American history, free institutions, or Western civilization, which may include—

"(i) design and implementation of programs of study, courses, lecture series, seminars, and symposia;

"(ii) development, publication, and dissemination of instructional materials;

"(iii) research;

"(iv) support for faculty teaching in undergraduate and, if applicable, graduate programs;

"(v) support for graduate and post-graduate fellowships, if applicable; or

"(vi) teacher preparation initiatives that stress content mastery regarding traditional American history, free institutions, or Western civilization; and

"(B) conduct outreach activities to ensure that information about the activities funded under this part is widely disseminated—

"(i) to undergraduate students (including students enrolled in teacher education programs, if applicable);

"(ii) to graduate students (including students enrolled in teacher education programs), if applicable;

"(iii) to faculty;

"(iv) to local educational agencies; and

"(v) within the local community.

"(2) ALLOWABLE USES OF FUNDS.—Funds provided under this part may be used to support—

"(A) collaboration with entities such as—

"(i) local educational agencies, for the purpose of providing elementary, middle and secondary school teachers an opportunity to enhance their knowledge of traditional American history, free institutions, or Western civilization; and

"(ii) nonprofit organizations whose mission is consistent with the purpose of this part, such as academic organizations, museums, and libraries, for assistance in carrying out activities described under subsection (a); and

"(B) other activities that meet the purposes of this part.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART F—TEACH FOR AMERICA

### "SEC. 861. TEACH FOR AMERICA.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—The terms 'highly qualified', 'local educational agency', and 'Secretary' have the meanings given the terms in section 9101 of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(2) GRANTEE.—The term 'grantee' means Teach For America, Inc.

"(3) HIGH NEED.—The term 'high need', when used with respect to a local educational agency, means a local educational agency experiencing a shortage of highly qualified teachers.

"(b) GRANTS AUTHORIZED.—The Secretary is authorized to award a grant to Teach For America, Inc., the national teacher corps of outstanding recent college graduates who commit to teach for 2 years in underserved communities in the United States, to implement and expand its program of recruiting, selecting, training, and supporting new teachers.

"(c) REQUIREMENTS.—In carrying out the grant program under subsection (b), the Secretary shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds provided under this section—

"(1) to provide highly qualified teachers to high need local educational agencies in urban and rural communities;

"(2) to pay the cost of recruiting, selecting, training, and supporting new teachers; and

"(3) to serve a substantial number and percentage of underserved students.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds provided under this section shall be used by the grantee to carry out each of the following activities:

"(A) Recruiting and selecting teachers through a highly selective national process.

"(B) Providing preservice training to the teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

"(C) Placing the teachers in schools and positions designated by partner local educational agencies as high need placements serving underserved students.

"(D) Providing ongoing professional development activities for the teachers' first 2 years in the classroom, including regular classroom observations and feedback, and ongoing training and support.

"(2) LIMITATION.—The grantee shall use all grant funds received under this section to support activities related directly to the recruitment, selec-

tion, training, and support of teachers as described in subsection (a).

"(e) REPORTS AND EVALUATIONS.—

"(1) ANNUAL REPORT.—The grantee shall provide to the Secretary an annual report that includes—

"(A) data on the number and quality of the teachers provided to local educational agencies through a grant under this section;

"(B) an externally conducted analysis of the satisfaction of local educational agencies and principals with the teachers so provided; and

"(C) comprehensive data on the background of the teachers chosen, the training the teachers received, the placement sites of the teachers, the professional development of the teachers, and the retention of the teachers.

"(2) STUDY.—

"(A) IN GENERAL.—From funds appropriated under subsection (f), the Secretary shall provide for a study that examines the achievement levels of the students taught by the teachers assisted under this section.

"(B) ACHIEVEMENT GAINS COMPARED.—The study shall compare, within the same schools, the achievement gains made by students taught by teachers who are assisted under this section with the achievement gains made by students taught by teachers who are not assisted under this section.

"(3) REQUIREMENTS.—The Secretary shall provide for such a study not less than once every 3 years, and each such study shall include multiple placement sites and multiple schools within placement sites.

"(4) PEER REVIEW STANDARDS.—Each such study shall meet the peer review standards of the education research community.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(2) LIMITATION.—The grantee shall not use more than 25 percent of Federal funds from any source for administrative costs.

**"PART G—PATSY T. MINK FELLOWSHIP PROGRAM**

**"SEC. 871. PATSY T. MINK FELLOWSHIP PROGRAM.**

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to provide, through eligible institutions, a program of fellowship awards to assist highly qualified minorities and women to acquire the doctoral degree, or highest possible degree available, in academic areas in which such individuals are underrepresented for the purpose of enabling such individuals to enter the higher education professoriate.

"(2) DESIGNATION.—Each recipient of a fellowship award from an eligible institution receiving a grant under this section shall be known as a 'Patsy T. Mink Graduate Fellow'.

"(b) DEFINITIONS.—In this section, the term 'eligible institution' means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a graduate degree.

"(c) PROGRAM AUTHORIZED.—

"(1) GRANTS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall award grants to eligible institutions to enable such institutions to make fellowship awards to individuals in accordance with the provisions of this section.

"(B) PRIORITY CONSIDERATION.—In awarding grants under this section, the Secretary shall consider the eligible institution's prior experience in producing doctoral degree, or highest possible degree available, holders who are minorities and women, and shall give priority consideration in making grants under this section to those eligible institutions with a demonstrated record of producing minorities and women who have earned such degrees.

"(2) APPLICATIONS.—

"(A) IN GENERAL.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) APPLICATIONS MADE ON BEHALF.—

"(i) IN GENERAL.—The following entities may submit an application on behalf of an eligible institution:

"(I) A graduate school or department of such institution.

"(II) A graduate school or department of such institution in col-

laboration with an undergraduate college or university of such institution.

"(III) An organizational unit within such institution that offers a program of postbaccalaureate study leading to a graduate degree, including an interdisciplinary or an interdepartmental program.

"(IV) A nonprofit organization with a demonstrated record of helping minorities and women earn postbaccalaureate degrees.

"(ii) NONPROFIT ORGANIZATIONS.—Nothing in this paragraph shall be construed to permit the Secretary to award a grant under this section to an entity other than an eligible institution.

"(3) SELECTION OF APPLICATIONS.—In awarding grants under subsection (a), the Secretary shall—

"(A) take into account—

"(i) the number and distribution of minority and female faculty nationally;

"(ii) the current and projected need for highly trained individuals in all areas of the higher education professoriate; and

"(iii) the present and projected need for highly trained individuals in academic career fields in which minorities and women are underrepresented in the higher education professoriate; and

"(B) consider the need to prepare a large number of minorities and women generally in academic career fields of high national priority, especially in areas in which such individuals are traditionally underrepresented in college and university faculties, such as mathematics, science, technology, and engineering.

"(4) DISTRIBUTION AND AMOUNTS OF GRANTS.—

"(A) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among public and independent eligible institutions that apply for grants under this section and that

demonstrate an ability to achieve the purpose of this section.

"(B) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall use not less than 30 percent of the amount appropriated pursuant to subsection (f) to award grants to eligible institutions that—

"(i) are eligible for assistance under title III or title V; or

"(ii) have formed a consortium that includes both non-minority serving institutions and minority serving institutions.

"(C) ALLOCATION.—In awarding grants under this section, the Secretary shall allocate appropriate funds to those eligible institutions whose applications indicate an ability to significantly increase the numbers of minorities and women entering the higher education professoriate and that commit institutional resources to the attainment of the purpose of this section.

"(D) NUMBER OF FELLOWSHIP AWARDS.—An eligible institution that receives a grant under this section shall make not less than 15 fellowship awards.

"(E) REALLOTMENT.—If the Secretary determines that an eligible institution awarded a grant under this section is unable to use all of the grant funds awarded to the institution, the Secretary shall reallot, on such date during each fiscal year as the Secretary may fix, the unused funds to other eligible institutions that demonstrate that such institutions can use any reallocated grant funds to make fellowship awards to individuals under this section.

"(5) INSTITUTIONAL ALLOWANCE.—

"(A) IN GENERAL.—

"(i) NUMBER OF ALLOWANCES.—In awarding grants under this section, the Secretary shall pay to each eligible institution awarded a grant, for each individual awarded a fellowship by such institution under this section, an institutional allowance.

"(ii) AMOUNT.—Except as provided in paragraph (3), an institutional allowance shall be in an amount equal to, for academic year 2006-2007 and succeeding academic years, the amount of institutional allowance made to an institution of higher

education under section 715 for such academic year.

"(B) USE OF FUNDS.—Institutional allowances may be expended in the discretion of the eligible institution and may be used to provide, except as prohibited under paragraph (4), academic support and career transition services for individuals awarded fellowships by such institution.

"(C) REDUCTION.—The institutional allowance paid under paragraph (1) shall be reduced by the amount the eligible institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

"(D) USE FOR OVERHEAD PROHIBITED.—Funds made available under this section may not be used for general operational overhead of the academic department or institution receiving funds under this section.

"(d) FELLOWSHIP RECIPIENTS.—

"(1) AUTHORIZATION.—An eligible institution that receives a grant under this section shall use the grant funds to make fellowship awards to minorities and women who are enrolled at such institution in

a doctoral degree, or highest possible degree available, program and—

"(A) intend to pursue a career in instruction at—

"(i) an institution of higher education (as the term is defined in section 101);

"(ii) an institution of higher education (as the term is defined in section 102(a)(1));

"(iii) an institution of higher education outside the United States (as the term is described in section 102(a)(2)); or

"(iv) a proprietary institution of higher education (as the term is defined in section 102(b)); and

"(B) sign an agreement with the Secretary agreeing—

"(i) to begin employment at an institution described in paragraph (1) not later than 3 years after receiving the doctoral degree or highest possible degree available, which 3-year period may be extended by the Secretary for extraordinary circumstances; and

"(ii) to be employed by such institution for 1 year for each year of fellowship assistance received under this section.

"(2) FAILURE TO COMPLY.—If an individual who receives a fellowship award under this section fails to comply with the agreement signed pursuant to subsection (a)(2), then the Secretary shall do 1 or both of the following:

"(A) Require the individual to repay all or the applicable portion of the total fellowship amount awarded to the individual by converting the balance due to a loan at the interest rate applicable to loans made under part B of title IV.

"(B) Impose a fine or penalty in an amount to be determined by the Secretary.

"(3) WAIVER AND MODIFICATION.—

"(A) REGULATIONS.—The Secretary shall promulgate regulations setting forth criteria to be considered in granting a waiver for the service requirement under subsection (a)(2).

"(B) CONTENT.—The criteria under paragraph (1) shall include whether compliance with the service requirement by the fellowship recipient would be—

"(i) inequitable and represent an extraordinary hardship; or

"(ii) deemed impossible because the individual is permanently and totally disabled at the time of the waiver request.

"(4) AMOUNT OF FELLOWSHIP AWARDS.—Fellowship awards under this section shall consist of a stipend in an amount equal to the level of support provided to the National Science Foundation graduate fellows, except that such stipend shall be adjusted as necessary so as not to exceed the fellow's tuition and fees or demonstrated need (as determined by the institution of higher education where the graduate student is enrolled), whichever is greater.

"(5) ACADEMIC PROGRESS REQUIRED.—An individual student shall not be eligible to receive a fellowship award—

"(A) except during periods in which such student is enrolled, and such student is maintaining satisfactory academic progress in, and devoting essentially full time to, study or research in the pursuit of the degree for which the fellowship support was awarded; and

"(B) if the student is engaged in gainful employment, other than part-time employment in teaching, research, or similar activity determined by the eligible institution to be consistent with and supportive of the student's progress toward the appropriate degree.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an eligible institution that receives a grant under this section—

"(1) to grant a preference or to differentially treat any applicant for a faculty position as a result of the institution's participation in the program under this section; or

"(2) to hire a Patsy T. Mink Fellow who completes this program and seeks employment at such institution.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 for each of the 5 succeeding fiscal years.

**"PART H—STUDY ON COLLEGE ENROLLMENT BY SECONDARY SCHOOLS**

**"SEC. 881. STUDY ON COLLEGE ENROLLMENT BY SECONDARY SCHOOLS.**

''The Secretary shall contract with a not-for-profit organization, with demonstrated expertise in increasing college enrollment rates in low-income communities nationwide, to make publicly available year-to-year college enrollment rate trends by secondary schools, in full compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA).''.

## CHAPTER 10—AMENDMENTS TO OTHER LAWS

### Subchapter A—Education of the Deaf Act of 1986

**SEC. 7901. LAURENT CLERC NATIONAL DEAF EDUCATION CENTER.**

Section 104 of the Education of the Deaf Act of 1986 (20 U.S.C. 4304) is amended—

(1) by striking the heading and inserting ''**LAURENT CLERC NATIONAL DEAF EDUCATION CENTER**'';

(2) in subsection (a)(1)(A), by inserting ''the Laurent Clerc National Deaf Education Center (referred to in this section as the 'Clerc Center') to carry out'' after ''maintain and operate''; and

(3) in subsection (b)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking ''elementary and secondary education programs'' and inserting ''Clerc Center'';

(B) in paragraph (2), by striking ''elementary and secondary education programs'' and inserting ''Clerc Center''; and

(C) by adding at the end the following:

''(5) The University, for purposes of the elementary and secondary education programs carried out at the Clerc Center, shall—

''(A)(i) select challenging academic content standards, challenging student academic achievement standards, and academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (3) of section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1) and (3)) and approved by the Secretary; and

''(ii) implement such standards and assessments for such programs by not later than the beginning of the 2008–2009 academic year;

''(B) annually determine whether such programs at the Clerc Center are making adequate

yearly progress, as determined according to the definition of adequate yearly progress defined (pursuant to section 1111(b)(2)(C) of such Act (20 U.S.C. 6311(b)(2)(C))) by the State that has adopted and implemented the standards and assessments selected under subparagraph (A)(i); and

"(C) publicly report the results of the academic assessments implemented under subparagraph (A) and whether the programs at the Clerc Center are making adequate yearly progress, as determined under subparagraph (B).".

**SEC. 7902. AGREEMENT WITH GALLAUDET UNIVERSITY.**

Section 105(b)(4) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(b)(4)) is amended—

(1) by striking "the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act" and inserting "subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act"; and

(2) by striking "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

**SEC. 7903. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.**

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking ''an institution of higher education'' and inserting ''the Rochester Institute of Technology, Rochester, New York''; and

(II) by striking ''of a'' and inserting ''of the''; and

(ii) by striking the second sentence;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

''(2) Notwithstanding the requirement under paragraph (1), if the Secretary or the Rochester Institute of Technology terminates the agreement under paragraph (1), the Secretary shall consider proposals from other institutions of higher education and enter into an agreement with 1 of such institutions for the establishment and operation of a National Technical Institution for the Deaf.''; and

(2) in subsection (b)—

(A) in paragraph (3), by striking ''Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate'' and inserting ''Committee on Education and the Workforce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate''; and

(B) in paragraph (5)—

(i) by striking ''the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act'' and inserting ''subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act''; and

(ii) by striking ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' and inserting ''section 3145 of title 40, United States Code''.

**SEC. 7904. CULTURAL EXPERIENCES GRANTS.**

(a) CULTURAL EXPERIENCES GRANTS.—Title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following:

## "PART C—OTHER PROGRAMS

### "SEC. 121. CULTURAL EXPERIENCES GRANTS.

''(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, and enter into contracts and cooperative agreements with, eligible entities to support the activities described in subsection (b).

''(b) ACTIVITIES.—In carrying out this section, the Secretary shall support activities providing cultural experiences, through appropriate nonprofit organizations with a demonstrated proficiency in providing such activities, that—

''(1) enrich the lives of deaf and hard-of-hearing children and adults;

''(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

''(3) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences.

''(c) APPLICATIONS.—An eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(b) CONFORMING AMENDMENT.—The title heading of title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end "; OTHER PROGRAMS".

**SEC. 7905. AUDIT.**

Section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking the second sentence and inserting the following: "The institution of higher education that the Secretary has an agreement with under section 112 shall have an annual independent financial and compliance audit made of NTID programs and activities. The audit shall follow the cycle of the Federal fiscal year.";

(B) in paragraph (2), by striking "sections" and all that follows through the period and inserting "sections 102(b), 105(b)(4), 112(b)(5), 203(c), 207(b)(2), subsections (c)

through (f) of section 207, and subsections (b) and (c) of section 209.''; and

(C) in paragraph (3), by inserting ''and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate'' after ''Secretary''; and

(2) in subsection (c)(2)(A), by striking ''Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate''.

**SEC. 7906. REPORTS.**

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended—

(1) in the matter preceding paragraph (1), by striking ''Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate'' and inserting ''Committee on Education and the Workforce of the House of Representatives and the Committee

on Health, Education, Labor, and Pensions of the Senate''; (2) in paragraph (1), by striking ''preparatory,''; (3) in paragraph (2)(C), by striking ''upon graduation/completion'' and inserting ''on the date that is 1 year after the date of graduation or completion''; and (4) in paragraph (3)(B), by striking ''of the institution of higher education'' and all that follows through the period and inserting ''of NTID programs and activities.''.

**SEC. 7907. MONITORING, EVALUATION, AND REPORTING.**

Section 205 of the Education of the Deaf Act of 1986 (20 U.S.C. 4355) is amended—

(1) in subsection (b), by striking ''The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of'' and inserting ''The Secretary shall annually transmit information to Congress on''; and

(2) in subsection (c), by striking ''fiscal years 1998 through 2003'' and inserting ''fiscal years 2006 through 2010''.

**SEC. 7908. LIAISON FOR EDUCATIONAL PROGRAMS.**

Section 206(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4356(a)) is amended by striking ''Not later than 30 days after the date of enactment of this Act, the'' and inserting ''The''.

**SEC. 7909. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.**

Section 207(h) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(h)) is amended by striking ''fiscal years 1998 through 2003'' each place it appears and inserting ''fiscal years 2006 through 2010''.

**SEC. 7910. OVERSIGHT AND EFFECT OF AGREEMENTS.**

Section 208(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359(a)) is amended by striking ''Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives'' and inserting ''Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate''.

**SEC. 7911. INTERNATIONAL STUDENTS.**

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a) is amended—

(1) in subsection (a)—

(A) by striking ''preparatory, undergraduate,'' and inserting ''undergraduate'';

(B) by striking ''Effective with'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), effective with''; and

(C) by adding at the end the following:

''(2) DISTANCE LEARNING.—International students who participate in distance learning courses that are at NTID or the University and who are residing outside of the United States shall—

''(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

''(B) not be charged a tuition surcharge, as described in subsection (b).''; and

(2) by striking subsections (b), (c), and (d), and inserting the following:

"(b) TUITION SURCHARGE.—Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2007–2008 and any succeeding academic year, a surcharge of—

"(1) 100 percent for a postsecondary international student from a non-developing country; and

"(2) 50 percent for a postsecondary international student from a developing country.

"(c) REDUCTION OF SURCHARGE.—

"(1) IN GENERAL.—Beginning with the academic year 2007–2008, the University or NTID may reduce the surcharge—

"(A) under subsection (b)(1) to 50 percent if—

"(i) a student described under subsection (b)(1) demonstrates need; and

"(ii) such student has made a good faith effort to secure aid through such student's government or other sources; and

"(B) under subsection (b)(2) to 25 percent if—

"(i) a student described under subsection (b)(2) demonstrates need; and

"(ii) such student has made a good faith effort to secure aid through such student's government or other sources.

"(2) DEVELOPMENT OF SLIDING SCALE.—The University and NTID shall develop a sliding scale model that—

"(A) will be used to determine the amount of a tuition surcharge reduction pursuant to paragraph (1); and

"(B) shall be approved by the Secretary.

"(d) DEFINITION.—In this section, the term 'developing country' means a country with a per-capita income of not more than $4,825, measured in 1999 United States dollars, as adjusted by the Secretary to reflect inflation since 1999.".

**SEC. 7912. RESEARCH PRIORITIES.**

Section 210(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359b(b)) is amended by striking "Committee on Labor and Human Resources of the Senate" and inserting "Committee on Health, Education, Labor, and Pensions of the Senate".

**SEC. 7913. AUTHORIZATION OF APPROPRIATIONS.**

Section 212 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360a) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''fiscal years 1998 through 2003'' and inserting ''fiscal years 2006 through 2011''; and

(2) in subsection (b), by striking ''fiscal years 1998 through 2003'' and inserting ''fiscal years 2006 through 2011''.

## Subchapter B—United States Institute of Peace Act

**SEC. 7921. UNITED STATES INSTITUTE OF PEACE ACT.**

(a) POWERS AND DUTIES.—Section 1705(b)(3) of the United States Institute of Peace Act (22 U.S.C. 4604(b)(3)) is amended by striking ''the Arms Control and Disarmament Agency,''.

(b) BOARD OF DIRECTORS.—Section 1706 of the United States Institute of Peace Act (22 U.S.C. 4605) is amended—

(1) by striking ''(b)(5)'' each place the term appears and inserting ''(b)(4)''; and

(2) in subsection (e), by adding at the end the following:

''(5) The term of a member of the Board shall not commence until the member is confirmed by the Senate and sworn in as a member of the Board.''.

(c) FUNDING.—Section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609) is amended by adding at the end the following:

''(d) EXTENSION.—Any authorization of appropriations made for the purposes of carrying out this title shall be extended in the same manner as applicable programs are extended under section 422 of the General Education Provisions Act.''.

## Subchapter C—The Higher Education Amendments of 1998

**SEC. 7931. REPEALS.**

The following provisions of title VIII of the Higher Education Amendments of 1998 (Public Law 105–244) are repealed:

(1) Part A.

(2) Part C (20 U.S.C. 1070 note).

(3) Part F (20 U.S.C. 1862 note).

(4) Part J.

(5) Section 861.

(6) Section 863.

**SEC. 7932. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.**

Section 821(b) of the Higher Education Amendment of 1988 is amended by striking ''25'' and inserting ''35''.

## Subchapter D—Indian Education

### PART I—TRIBAL COLLEGES AND UNIVERSITIES

**SEC. 7941. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ASSISTANCE ACT OF 1978.**

(a) CLARIFICATION OF THE DEFINITION OF NATIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking ''in the field of Indian education'' and inserting ''in the fields of tribally controlled colleges and universities and Indian higher education''.

(b) INDIAN STUDENT COUNT.—Section 2(a) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) 'Indian student' means a student who is—

''(A) a member of an Indian tribe; or

''(B) a biological child of a member of an Indian tribe, living or deceased;''.

(c) CONTINUING EDUCATION.—Section 2(b) of the Tribally Controlled College or University Assistance Act

(25 U.S.C. 1801(b)) is amended by striking paragraph (5) and inserting the following:

"(5) DETERMINATION OF CREDITS.—Eligible credits earned in a continuing education program—

"(A) shall be determined as 1 credit for every 10 contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

"(B) shall be limited to 10 percent of the Indian student count of a tribally controlled college or university.".

(d) ACCREDITATION REQUIREMENT.—Section 103 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1804) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (3), the following:

''(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

''(B) is, according to such an agency or association, making reasonable progress toward accreditation.''.

(e) TECHNICAL ASSISTANCE CONTRACT AWARDS.—Section 105 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1805) is amended in the second sentence by striking ''In the awarding of contracts for technical assistance, preference shall be given'' and inserting ''The Secretary shall direct that contracts for technical assistance be awarded''.

(f) TITLE I REAUTHORIZATION.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking ''1999'' and inserting ''2006'';

(2) in paragraphs (1), (2), and (3), by striking ''4 succeeding'' and inserting ''5 succeeding'';

(3) in paragraph (2), by striking "$40,000,000" and inserting "such sums as may be necessary";

(4) in paragraph (3), by striking "$10,000,000" and inserting "such sums as may be necessary"; and

(5) in paragraph (4), by striking "succeeding 4" and inserting "5 succeeding".

(g) TITLE III REAUTHORIZATION.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking "1999" and inserting "2006"; and

(2) by striking "4 succeeding" and inserting "5 succeeding".

(h) TITLE IV REAUTHORIZATION.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking "$2,000,000 for fiscal year 1999" and inserting "such sums as may be necessary for fiscal year 2006"; and

(2) by striking "4 succeeding" and inserting "5 succeeding".

## PART II—NAVAJO HIGHER EDUCATION

**SEC. 7945. SHORT TITLE.**

This part may be cited as the ''Navajo Nation Higher Education Act of 2005''.

**SEC. 7946. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.**

(a) PURPOSE.—Section 2 of the Navajo Community College Act (25 U.S.C. 640a) is amended—

(1) by striking ''Navajo Tribe of Indians'' and inserting ''Navajo Nation''; and

(2) by striking ''the Navajo Community College'' and inserting ''Diné College''.

(b) GRANTS.—Section 3 of the Navajo Community College Act (25 U.S.C. 640b) is amended—

(1) in the first sentence—

(A) by inserting ''the'' before ''Interior'';

(B) by striking ''Navajo Tribe of Indians'' and inserting ''Navajo Nation''; and

(C) by striking ''the Navajo Community College'' and inserting ''Diné College''; and

(2) in the second sentence—

(A) by striking ''Navajo Tribe'' and inserting ''Navajo Nation''; and

(B) by striking ''Navajo Indians'' and inserting ''Navajo people''.

(c) STUDY OF FACILITIES NEEDS.—Section 4 of the Navajo Community College Act (25 U.S.C. 640c) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''the Navajo Community College'' and inserting ''Diné College''; and

(ii) by striking ''August 1, 1979'' and inserting ''October 31, 2009''; and

(B) in the second sentence, by striking ''Navajo Tribe'' and inserting ''Navajo Nation'';

(2) in subsection (b), by striking ''the date of enactment of the Tribally Controlled Community College Assistance Act of 1978'' and inserting ''October 1, 2006''; and

(3) in subsection (c), in the first sentence, by striking ''the Navajo Community College'' and inserting ''Diné College''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 5 of the Navajo Community College Act (25 U.S.C. 640c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''$2,000,000'' and all that follows through the

end of the paragraph and inserting ''such sums as are necessary for fiscal years 2006 through 2011.''; and

(B) by adding at the end the following:

''(3) Sums described in paragraph (2) shall be used to provide grants for construction activities, including the construction of buildings, water and sewer facilities, roads, information technology and telecommunications infrastructure, classrooms, and external structures (such as walkways).'';

(2) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''the Navajo Community College'' and inserting ''Diné College''; and

(ii) by striking '', for each fiscal year'' and all that follows through ''for—'' and inserting ''such sums as are necessary for fiscal years 2006 through 2011 to pay the cost of—'';

(B) in subparagraph (A)—

(i) by striking ''college'' and inserting ''College'';

(ii) in clauses (i) and (iii), by striking the commas at the ends of the clauses and inserting semicolons; and

(iii) in clause (ii), by striking ", and" at the end and inserting "; and";

(C) in subparagraph (B), by striking the comma at the end and inserting a semicolon;

(D) in subparagraph (C), by striking ", and" at the end and inserting a semicolon;

(E) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(E) improving and expanding the College, including by providing, for the Navajo people and others in the community of the College—

"(i) higher education programs;

"(ii) vocational and technical education;

"(iii) activities relating to the preservation and protection of the Navajo language, philosophy, and culture;

"(iv) employment and training opportunities;

"(v) economic development and community outreach; and

"(vi) a safe learning, working, and living environment."; and

(3) in subsection (c), by striking "the Navajo Community College" and inserting "Diné College".

(e) EFFECT ON OTHER LAWS.—Section 6 of the Navajo Community College Act (25 U.S.C. 640c–2) is amended—

(1) by striking "the Navajo Community College" each place it appears and inserting "Diné College"; and

(2) in subsection (b), by striking "college" and inserting "College".

(f) PAYMENTS; INTEREST.—Section 7 of the Navajo Community College Act (25 U.S.C. 640c–3) is amended by striking "the Navajo Community College" each place it appears and inserting "Diné College".

# TITLE VIII—COMMITTEE ON THE JUDICIARY

**SEC. 8001. RECAPTURE OF UNUSED VISA NUMBERS.**

(a) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended—

(1) in paragraph (2)(C)—

(A) by striking "is the difference" and inserting "is the sum of—

"(i) the difference"; and

(B) by striking the period at the end and inserting the following: "; and

"(ii) the lesser of—

"(I) the number of immigrant visas that were available in any previous fiscal year to employment-based immigrants (and their family members accompanying or following to join under section 203(d)) and that were not issued for that fiscal year or for any subsequent fiscal year, excluding those immigrant visas reserved for employment-based immigrants for an occupation listed in schedule A of section 656.5 of title 20, Code of Federal Regulations; and

"(II) 90,000."; and

(2) by adding at the end the following:

"(3) Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).".

(b) SUPPLEMENTAL PETITION FEE.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (E), by adding at the end the following: ''Such petition shall be accompanied by a supplemental petition fee in the amount of $500.''; and

(2) in subparagraph (F), by adding at the end the following: ''Such petition shall be accompanied by a supplemental petition fee in the amount of $500.''.

(c) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) is amended to read as follows:

''(a)(1) The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) may be adjusted by the Secretary of Homeland Security or the Attorney General, in the discretion of the Secretary or Attorney General, and under such regulations as the Secretary or Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

1 ''(A) the alien makes an application for such
2 adjustment;
3 ''(B) the alien is eligible to receive an immi-
4 grant visa and is admissible to the United States for
5 permanent residence; and
6 ''(C) an immigrant visa is immediately available
7 to the alien at the time the application is filed.
8 ''(2) If a supplemental petition fee is paid for any
9 petition under subparagraph (E) or (F) of section
10 204(a)(1), an application under paragraph (1) of this sub-
11 section on behalf of an alien beneficiary of such petition
12 (including a spouse or child who is accompanying or fol-
13 lowing to join the principal beneficiary) may be filed with-
14 out regard to the limitation set forth in paragraph (1)(C).
15 An application for adjustment of status filed under this
16 paragraph may not be approved until such time as an im-
17 migrant visa becomes available.''.
18 (2) PENDING APPLICATIONS.—An alien on
19 whose behalf a petition was pending under subpara-
20 graph (E) or (F) of section 204(a)(1) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1154(a)(1)),
22 on the date of enactment of this Act may, upon the
23 payment of the supplemental petition fee set forth in
24 such section, apply for adjustment of status under
25 this subsection without regard to the limitation set

forth in section 245(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1255(a)(1)(C)), as amended by paragraph (1).

(d) RECAPTURE OF UNUSED H–1B VISA NUMBERS.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) by redesignating paragraphs (9) through (11) as paragraphs (10) through (12), respectively; and

(2) by inserting after paragraph (8) the following:

"(9)(A) If the numerical limitation in paragraph (1)(A) for fiscal year 2006 or a subsequent fiscal year has been reached, such numerical limitation shall be supplemented in a number equal to the lesser of—

"(i) the cumulative total number of visas that were available in all prior fiscal years subsequent to fiscal year 1991, and not issued for each such fiscal year or any subsequent fiscal year; and

"(ii) 30,000.

"(B) Any petition filed after the numerical limitation set forth in paragraph (1)(A) has been reached for that fiscal year, and seeking an H–1B

visa number recaptured under subparagraph (A) of this paragraph, shall be accompanied by an H-1B recapture fee in the amount of $500.''.

(e) CONFORMING AMENDMENT.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by inserting '', including those fees provided for in subparagraphs (E) and (F) of section 204(a)(1) and subsections (c)(15) and (g)(9)(B) of section 214,'' after ''all adjudication fees''.

(f) EXPENDITURE LIMITATION.—Amounts collected under subparagraphs (E) and (F) of section 204(a)(1) and subsections (c)(15) and (g)(9)(B) of section 214 of the Immigration and Nationality Act, as amended by this Act, may not be expended unless specifically appropriated by an Act of Congress.

**SEC. 8002. FEES WITH RESPECT TO IMMIGRATION SERVICES FOR INTRACOMPANY TRANSFEREES.**

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) The Secretary of State shall impose a fee on an employer when an alien files an application abroad for a visa authorizing initial admission to the United States as a nonimmigrant described in section 101(a)(15)(L) in order to be employed by the employer,

if the alien is covered under a blanket petition described in paragraph (2)(A).

"(B) The Secretary of Homeland Security shall impose a fee on an employer filing a petition under paragraph (1) initially to grant an alien nonimmigrant status described in section 101(a)(15)(L) or to extend for the first time the stay of an alien having such status.

"(C) The amount of the fee imposed under subparagraph (A) or (B) shall be $750.

"(D) The fees imposed under subparagraphs (A) and (B) shall only apply to principal aliens and not to spouses or children who are accompanying or following to join such principal aliens.

"(E)(i) An employer may not require an alien who is the beneficiary of the visa or petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee.

"(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).".

**Calendar No. 274**

109TH CONGRESS
1ST SESSION

# S. 1932

# A BILL

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

OCTOBER 27, 2005

Read twice and placed on the calendar