

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).

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

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).

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deficit Reduction Om-
5 nibus Reconciliation Act of 2005”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

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- Sec. 1102. Forfeiture penalty for nonrecourse sugar loans.
- Sec. 1103. Cotton competitiveness provisions.
- Sec. 1104. National dairy market loss payments.
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- Sec. 1202. Conservation security program.
- Sec. 1203. Environmental quality incentives program.

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- Sec. 1301. Initiative for future agriculture and food systems.

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TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

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1 **TITLE I—COMMITTEE ON AGRI-**
 2 **CULTURE, NUTRITION, AND**
 3 **FORESTRY**

4 **SEC. 1001. SHORT TITLE.**

5 This title may be cited as the “Agricultural Reconcili-
 6 ation Act of 2005”.

7 **Subtitle A—Commodity Programs**

8 **SEC. 1101. REDUCTION OF COMMODITY PROGRAM PAY-**
 9 **MENTS.**

10 (a) IN GENERAL.—Subtitle F of title I of the Farm
 11 Security and Rural Investment Act of 2002 (7 U.S.C.
 12 7991 et seq.) is amended by adding at the end the fol-
 13 lowing:

14 **“SEC. 1619. REDUCTION OF COMMODITY PROGRAM PAY-**
 15 **MENTS.**

16 “(a) DEFINITION OF COMMODITY PROGRAM PAY-
 17 MENTS.—In this section, the term ‘commodity program
 18 payments’ means—

19 “(1) direct payments;

20 “(2) counter-cyclical payments; and

1 “(3) payments and benefits associated with the
2 loan program, including gains from the forfeiture of
3 any commodity pledged as collateral for loans and
4 gains from in-kind payments described in section
5 166 of the Federal Agriculture Improvement and
6 Reform Act of 1996 (7 U.S.C. 7286), as determined
7 by the Secretary.

8 “(b) REDUCTION.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this title, for each of the 2006 through
11 2010 crop years for wheat, corn, grain sorghum,
12 barley, oats, upland cotton, extra long staple cotton,
13 rice, soybeans, other oilseeds, wool, mohair, honey,
14 dry peas, lentils, small chickpeas, unshorn pelts, si-
15 lage, hay, and peanuts, the Secretary shall reduce
16 the total amount of commodity program payments
17 received by the producers on a farm for those com-
18 modities for that crop year by an amount equal to
19 2.5 percent of that amount.

20 “(2) MILK.—During the period beginning on
21 October 1, 2005, and ending on September 30,
22 2007, the Secretary shall reduce the total amount of
23 payments received by producers pursuant to section
24 1502 by an amount equal to 2.5 percent of that
25 amount.”.

1 (b) COMMODITIES.—

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

9 (2) COTTON.—Sections 1204(e)(1) and 1208(a)
10 of the Farm Security and Rural Investment Act of
11 2002 (7 U.S.C. 7934(e)(1), 7938(a)) are amended
12 by striking “2008” each place it appears and insert-
13 ing “2012”.

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

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

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

20 (2) by inserting after subsection (g) the fol-
21 lowing:

22 “(h) FORFEITURE PENALTY.—

23 “(1) IN GENERAL.—In the case of each of the
24 2006 through 2010 crops of sugar beets and sugar-
25 cane, a penalty shall be assessed on the forfeiture of

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

3 “(2) AMOUNT.—The penalty for sugarcane and
4 sugar beets under this subsection shall be 1.2 per-
5 cent of the loan rate established for sugarcane and
6 sugar beets under subsections (a) and (b), respec-
7 tively.

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

13 “(4) CROPS.—This subsection shall apply only
14 to the 2006 through 2010 crops of sugar beets and
15 sugarcane.”.

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

17 (a) IN GENERAL.—Section 1207 of the Farm Secu-
18 rity and Rural Investment Act of 2002 (7 U.S.C. 7937)
19 is amended—

20 (1) by striking the section heading and insert-
21 ing the following: “**UPLAND COTTON IMPORT**
22 **QUOTAS.**”;

23 (2) by striking subsection (a);

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

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

2 (A) in paragraph (1)—

3 (i) in subparagraph (B), by striking “,
4 adjusted for the value of any certificate
5 issued under subsection (a),”; and

6 (ii) in subparagraph (C), by striking
7 “, for the value of any certificates issued
8 under subsection (a)”; and

9 (B) in paragraph (4), by striking “sub-
10 section (c)” and inserting “subsection (b)”; and

11 (5) in subsection (b)(2) (as so redesignated), by
12 striking “subsection (b)” and inserting “subsection
13 (a)”.

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

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

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

20 (a) AMOUNT.—Section 1502(c) of the Farm Security
21 and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is
22 amended by striking paragraph (3) and inserting the fol-
23 lowing:

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

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

3 “(B) during the period beginning on October 1,
4 2005, and ending on September 30, 2007, 34 per-
5 cent.”.

6 (b) DURATION.—Section 1502 of the Farm Security
7 and Rural Investment Act of 2002 (7 U.S.C. 7982) is
8 amended by striking “2005” each place it appears in sub-
9 sections (f) and (g)(1) and inserting “2007”.

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

13 (1) in subsection (g)(1), by striking “and sub-
14 section (h)”;

15 (2) by striking subsection (h).

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

17 (a) IN GENERAL.—Section 1103(d)(2) of the Farm
18 Security and Rural Investment Act of 2002 (7 U.S.C.
19 7913(d)(2)) is amended in the first sentence by striking
20 “2007 crops years” and inserting “2005 crop years, up
21 to 40 percent of the direct payment for a covered com-
22 modity for the 2006 crop year, and up to 29 percent of
23 the direct payment for a covered commodity for any of
24 the 2007 through 2011 crop years,”.

1 (b) PEANUTS.—Section 1303(e)(2) of the Farm Se-
 2 curity and Rural Investment Act of 2002 (7 U.S.C.
 3 7953(e)(2)) is amended in the first sentence by striking
 4 “2007 crop years” and inserting “2005 crop years, up
 5 to 40 percent of the direct payment for the 2006 crop
 6 year, and up to 29 percent of the direct payment for any
 7 of the 2007 through 2011 crop years,”.

8 **Subtitle B—Conservation**

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

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

12 (1) in subsection (a), by striking “2007” and
 13 inserting “2011”;

14 (2) in subsection (d), by striking “up” and all
 15 that follows through “years” and inserting “in the
 16 conservation reserve at any 1 time 36,400,000 acres
 17 during the 2002 through 2010 calendar years and
 18 38,300,000 acres in the 2011 calendar year”; and

19 (3) in subsection (h)(1)(A), by striking “2007”
 20 and inserting “2011”.

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

23 (1) in the matter before paragraph (1), by
 24 striking “For” and inserting “Except as otherwise
 25 provided in this subsection, for”; and

1 (2) in paragraph (1), by striking “The con-
2 servation” and inserting “For fiscal years 2002
3 through 2011, the conservation”.

4 (c) IMPLEMENTATION.—In implementing the amend-
5 ments made by this section, the Secretary of Agriculture
6 shall achieve the new maximum acreage enrollment limit
7 not later than 2 years after the date of enactment of this
8 Act without affecting conservation reserve existing con-
9 tracts.

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

11 (a) IN GENERAL.—Section 1238A(a) of the Food Se-
12 curity Act of 1985 (16 U.S.C. 3838a(a)) is amended by
13 striking “2007” and inserting “2011”.

14 (b) FUNDING.—Section 1241(a)(3) of the Food Secu-
15 rity Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by
16 striking “not more than \$6,037,000,000” and all that fol-
17 lows through “2014.” and inserting the following: “not
18 more than—

19 “(A) \$1,954,000,000 for the period of fis-
20 cal years 2006 through 2010; and

21 “(B) \$5,200,000,000 for the period of fis-
22 cal years 2006 through 2015.”.

1 **SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PRO-**
 2 **GRAM.**

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

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

9 (c) **FUNDING.**—Section 1241(a)(6) of the Food Secu-
 10 rity Act of 1985 (16 U.S.C. 3841(a)(6)) is amended by
 11 striking subparagraphs (D) and (E) and inserting the fol-
 12 lowing:

13 “(D) \$1,017,000,000 in fiscal year 2005;

14 “(E) \$1,185,000,000 in fiscal year 2006;

15 “(F) \$1,270,000,000 in each of fiscal
 16 years 2007 through 2010; and

17 “(G) \$1,300,000,000 in fiscal year 2011.”.

18 **Subtitle C—Miscellaneous**

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

21 (a) **IN GENERAL.**—Section 401(b)(3) of the Agricul-
 22 tural Research, Extension, and Education Reform Act of
 23 1998 (7 U.S.C. 7621(b)(3)) is amended—

24 (1) in subparagraph (C), by striking
 25 “\$160,000,000; and” and inserting
 26 “\$104,000,000;”;

1 (2) by redesignating subparagraph (D) as sub-
2 paragraph (E);

3 (3) by inserting after subparagraph (C) the fol-
4 lowing:

5 “(D) on October 1, 2006, and each Octo-
6 ber 1 thereafter through October 1, 2009,
7 \$130,000,000; and”;

8 (4) in subparagraph (E) (as so redesignated),
9 by striking “2006” and inserting “2010”.

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

12 **TITLE II—COMMITTEE ON BANK-**
13 **ING, HOUSING, AND URBAN**
14 **AFFAIRS**

15 **Subtitle A—Merger of the Deposit**
16 **Insurance Funds**

17 **SEC. 2001. SHORT TITLE.**

18 This subtitle may be cited as the “Safe and Fair De-
19 posit Insurance Act of 2005”.

20 **SEC. 2002. DEFINITIONS.**

21 In this subtitle—

22 (1) the term “Administration” means the Na-
23 tional Credit Union Administration;

24 (2) the term “Board” means the Board of Di-
25 rectors of the Federal Deposit Insurance Corpora-

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

3 (3) the term “Corporation” means the Federal
4 Deposit Insurance Corporation;

5 (4) the term “designated reserve ratio” means
6 the reserve ratio designated by the Board under sec-
7 tion 7(b)(3) of the Federal Deposit Insurance Act,
8 as amended by this subtitle;

9 (5) the terms “Fund” and “Deposit Insurance
10 Fund” mean the Deposit Insurance Fund estab-
11 lished under section 11(a)(4) of the Federal Deposit
12 Insurance Act, as amended by this subtitle;

13 (6) the terms “depository institution” and “in-
14 sured depository institution” have the same mean-
15 ings as in section 3 of the Federal Deposit Insur-
16 ance Act; and

17 (7) the term “reserve ratio” means the ratio of
18 the fund balance of the Deposit Insurance Fund to
19 aggregate estimated insured deposits held in all in-
20 sured depository institutions.

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

22 (a) IN GENERAL.—

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

1 “(i) maintain and administer;

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

5 “(iii) invest in accordance with section
6 13(a).

7 “(B) USES.—The Deposit Insurance Fund
8 shall be available to the Corporation for use
9 with respect to Deposit Insurance Fund mem-
10 bers.”;

11 (3) by striking “(4) GENERAL PROVISIONS RE-
12 LATING TO FUNDS.—” and inserting the following:

13 “(4) ESTABLISHMENT OF THE DEPOSIT INSUR-
14 ANCE FUND.—”;

15 (4) in subparagraph (C), as redesignated by
16 paragraph (1) of this subsection, by striking “Bank
17 Insurance Fund and the Savings Association Insur-
18 ance Fund” and inserting “Deposit Insurance
19 Fund”; and

20 (5) by adding at the end the following:

21 “(D) DEPOSITS.—All amounts assessed
22 against insured depository institutions by the
23 Corporation shall be deposited in the Deposit
24 Insurance Fund.”.

1 (b) MERGER-RELATED AMENDMENTS TO THE FED-
2 ERAL DEPOSIT INSURANCE ACT.—

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

6 “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-
7 SURANCE FUND.—

8 “(1) DEPOSIT INSURANCE FUND.—The terms
9 ‘Deposit Insurance Fund’ and ‘Fund’ mean the fund
10 established under section 11(a)(4).”.

11 (2) ASSESSMENTS.—Section 7 of the Federal
12 Deposit Insurance Act (12 U.S.C. 1817) is amend-
13 ed—

14 (A) by striking subsection (l);

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

17 (C) in subsection (b), by striking para-
18 graph (2) and inserting the following:

19 “(2) ASSESSMENTS.—

20 “(A) IN GENERAL.—Each insured deposi-
21 tory institution shall pay assessments to the
22 Corporation in such amounts and at such time
23 or times as the Board of Directors may require.

1 “(B) FACTORS TO BE CONSIDERED.—In
2 setting assessments for insured depository insti-
3 tutions, the Board of Directors shall consider—

4 “(i) the estimated operating expenses
5 of the Deposit Insurance Fund;

6 “(ii) the estimated case resolution ex-
7 penditures and income of the Deposit In-
8 surance Fund;

9 “(iii) the projected effects of assess-
10 ments on the earnings and capital of in-
11 sured depository institutions;

12 “(iv) the need to maintain a risk-
13 based assessment system under paragraph
14 (1); and

15 “(v) any other factors that the Board
16 of Directors may determine to be appro-
17 priate.

18 “(C) NOTICE OF ASSESSMENTS.—The Cor-
19 poration shall notify each insured depository in-
20 stitution of assessments charged to that institu-
21 tion.

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

1 this paragraph for any assessment period in
2 which a depository institution becomes in-
3 sured.”.

4 (3) REPEAL OF SEPARATE FUNDS PROVI-
5 SIONS.—Section 11(a) of the Federal Deposit Insur-
6 ance Act (12 U.S.C. 1821(a)) is amended—

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

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

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

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

15 (1) in section 3(a)(1) (12 U.S.C. 1813(a)(1)),
16 by striking subparagraph (B) and inserting the fol-
17 lowing:

18 “(B) includes any former savings associa-
19 tion.”;

20 (2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)),
21 by striking “the Bank Insurance Fund or the Sav-
22 ings Association Insurance Fund;” and inserting
23 “the Deposit Insurance Fund;”;

1 (3) in section 5(c)(4), by striking “deposit in-
2 surance fund” and inserting “Deposit Insurance
3 Fund”;

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

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

7 (A) in subparagraph (A), by striking “re-
8 serve ratios in the Bank Insurance Fund and
9 the Savings Association Insurance Fund as re-
10 quired by section 7” and inserting “the reserve
11 ratio of the Deposit Insurance Fund”;

12 (B) by striking subparagraph (B) and in-
13 serting the following:

14 “(2) FEE CREDITED TO THE DEPOSIT INSUR-
15 ANCE FUND.—The fee paid by the depository insti-
16 tution under paragraph (1) shall be credited to the
17 Deposit Insurance Fund.”;

18 (C) by striking “UNINSURED INSTITU-
19 TIONS.—” and all that follows through “GEN-
20 ERAL.—” and inserting “UNINSURED INSTITU-
21 TIONS.—”; and

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

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

1 (A) in paragraph (5)(A), by striking
2 “Bank Insurance Fund or the Savings Associa-
3 tion Insurance Fund” and inserting “Deposit
4 Insurance Fund”;

5 (B) by striking paragraph (6); and

6 (C) by redesignating paragraphs (7), (8),
7 and (9) as paragraphs (6), (7), and (8), respec-
8 tively;

9 (7) in section 6(5) (12 U.S.C. 1816(5)), by
10 striking “Bank Insurance Fund or the Savings As-
11 sociation Insurance Fund” and inserting “Deposit
12 Insurance Fund”;

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

14 (A) by striking “in July”; and

15 (B) by striking “in January”;

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

17 (A) in paragraph (1)—

18 (i) in subparagraph (B)(ii), by strik-
19 ing “institution’s semiannual assessment”
20 and inserting “assessments for that insti-
21 tution under subsection (b)”;

22 (ii) in subparagraph (C)—

23 (I) by striking “a depository in-
24 stitution’s semiannual assessment”
25 and inserting “assessments for a de-

1 depository institution under subsection
2 (b)”; and

3 (II) by striking “deposit insur-
4 ance fund” each place that term ap-
5 pears and inserting “Deposit Insur-
6 ance Fund”;

7 (B) in paragraph (1)(D), by striking “each
8 deposit insurance fund” and inserting “the De-
9 posit Insurance Fund”;

10 (C) by striking paragraph (4) and redesign-
11 ating paragraphs (5) through (7) as para-
12 graphs (4) through (6), respectively;

13 (D) in paragraph (5), as so redesignated—
14 (i) by striking “any such assessment”
15 and inserting “any such assessment is nec-
16 essary”;

17 (ii) by striking subparagraph (B);

18 (iii) in subparagraph (A)—

19 (I) by striking “(A) is nec-
20 essary—”;

21 (II) by striking “Bank Insurance
22 Fund members” and inserting “in-
23 sured depository institutions”; and

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

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

3 (iv) in subparagraph (C) (as redesign-
4 nated)—

5 (I) by inserting “that” before
6 “the Corporation”; and

7 (II) by striking “; and” and in-
8 serting a period; and

9 (E) in paragraph (6), as so redesignated,
10 by striking “semiannual assessment” and in-
11 serting “assessment under subsection (b)”;
12 (10) in section 7(c) (12 U.S.C. 1817(c))—

13 (A) in paragraph (1), by striking “institu-
14 tion’s semiannual assessment” and inserting
15 “assessments for that institution under sub-
16 section (b)”;

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

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

21 (11) in section 7(j)(7)(F) (12 U.S.C.
22 1817(j)(7)(F)), by striking “Bank Insurance Fund
23 or the Savings Association Insurance Fund” and in-
24 serting “Deposit Insurance Fund”;

25 (12) in section 8 (12 U.S.C. 1818)—

1 (A) in subsection (p), by striking “semi-
2 annual”;

3 (B) in subsection (q), by striking “semi-
4 annual” and inserting “assessment”; and

5 (C) in subsection (t)(2)(C), by striking
6 “deposit insurance fund” and inserting “De-
7 posit Insurance Fund”;

8 (13) in section 11 (12 U.S.C. 1821), by striking
9 “deposit insurance fund” each place that term ap-
10 pears and inserting “Deposit Insurance Fund”;

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

15 (15) in section 11(i)(3) (12 U.S.C.
16 1821(i)(3))—

17 (A) by striking subparagraph (B);

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

20 (C) in subparagraph (B) (as redesignated),
21 by striking “subparagraphs (A) and (B)” and
22 inserting “subparagraph (A)”;

23 (16) in section 11(p)(2)(B) (12 U.S.C.
24 1821(p)(2)(B)), by striking “institution, any” and
25 inserting “institution, the”;

1 (17) in section 12(f)(4)(E)(iv) (12 U.S.C.
2 1822(f)(4)(E)(iv)), by striking “Federal deposit in-
3 surance funds” and inserting “the Deposit Insur-
4 ance Fund, or any predecessor deposit insurance
5 fund”;

6 (18) in section 13 (12 U.S.C. 1823)—

7 (A) by striking “deposit insurance fund”
8 each place that term appears and inserting
9 “Deposit Insurance Fund”;

10 (B) in subsection (a)(1), by striking “Bank
11 Insurance Fund, the Savings Association Insur-
12 ance Fund,” and inserting “Deposit Insurance
13 Fund”;

14 (C) in subsection (c)(4)(E)—

15 (i) in the subparagraph heading, by
16 striking “FUNDS” and inserting “FUND”;
17 and

18 (ii) in clause (i), by striking “any in-
19 surance fund” and inserting “the Deposit
20 Insurance Fund”;

21 (D) in subsection (c)(4)(G)(ii)—

22 (i) by striking “appropriate insurance
23 fund” and inserting “Deposit Insurance
24 Fund”;

1 (ii) by striking “the members of the
2 insurance fund (of which such institution
3 is a member)” and inserting “insured de-
4 pository institutions”;

5 (iii) by striking “each member’s” and
6 inserting “each insured depository institu-
7 tion’s”;

8 (iv) by striking “the member’s” each
9 place that term appears and inserting “the
10 institution’s”; and

11 (v) in subclause (II), by striking
12 “semiannual” and inserting “applicable as-
13 sessment”;

14 (E) in subsection (e), by striking para-
15 graph (11);

16 (F) in subsection (h), by striking “Bank
17 Insurance Fund” and inserting “Deposit Insur-
18 ance Fund”;

19 (G) in subsection (k)(4)(B)(i), by striking
20 “Savings Association Insurance Fund member”
21 and inserting “savings association”; and

22 (H) in subsection (k)(5)—

23 (i) in subparagraph (A), by striking
24 “Savings Association Insurance Fund

1 members” and inserting “savings associa-
2 tions”;

3 (ii) by striking “member’s” each place
4 that term appears and inserting “savings
5 association’s”; and

6 (iii) by striking “member” each place
7 that term appears and inserting “savings
8 association”;

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

11 (A) by striking “Bank Insurance Fund or
12 the Savings Association Insurance Fund” and
13 inserting “Deposit Insurance Fund”; and

14 (B) by striking “each such fund” and in-
15 serting “the Deposit Insurance Fund”;

16 (20) in section 14(b) (12 U.S.C. 1824(b)), by
17 striking “Bank Insurance Fund or Savings Associa-
18 tion Insurance Fund” and inserting “Deposit Insur-
19 ance Fund”;

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

21 (A) in paragraph (2)(A), by striking “(7)”
22 and inserting “(6)”;

23 (B) by striking paragraph (3);

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

1 (A) by striking “Bank Insurance Fund
2 member” each place that term appears and in-
3 sserting “insured depository institution”;

4 (B) by striking “Bank Insurance Fund
5 members” each place that term appears and in-
6 sserting “insured depository institutions”;

7 (C) by striking “Bank Insurance Fund”
8 each place that term appears (other than in
9 connection with a reference to a Bank Insur-
10 ance Fund member or members) and inserting
11 “Deposit Insurance Fund”;

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

14 “(d) BORROWING FOR THE DEPOSIT INSURANCE
15 FUND FROM INSURED DEPOSITORY INSTITUTIONS.—”;

16 (E) in paragraph (3), in the paragraph
17 heading, by striking “BIF” and inserting “THE
18 DEPOSIT INSURANCE FUND”; and

19 (F) in paragraph (5), in the paragraph
20 heading, by striking “BIF MEMBERS” and in-
21 sserting “INSURED DEPOSITORY INSTITUTIONS”;

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

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

1 “(1) IN GENERAL.—The Corporation may bor-
 2 row from the Federal home loan banks, with the
 3 concurrence of the Federal Housing Finance Board,
 4 such funds as the Corporation considers necessary
 5 for the use of the Deposit Insurance Fund.

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

9 “(A) bear a rate of interest of not less
 10 than the current marginal cost of funds to that
 11 bank, taking into account the maturities in-
 12 volved;

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

15 “(C) be a direct liability of the Deposit In-
 16 surance Fund.”;

17 (24) in section 15(c)(5) (12 U.S.C.
 18 1825(c)(5))—

19 (A) by striking “the Bank Insurance Fund
 20 or Savings Association Insurance Fund, respec-
 21 tively” each place that term appears and insert-
 22 ing “the Deposit Insurance Fund”; and

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

1 tion Insurance Fund, respectively” and insert-
2 ing “the Deposit Insurance Fund”;

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

4 (A) in the subsection heading, by striking
5 “BIF, SAIF,” and inserting “THE DEPOSIT IN-
6 SURANCE FUND”; and

7 (B) in paragraph (1)—

8 (i) by striking “the Bank Insurance
9 Fund, the Savings Association Insurance
10 Fund,” each place that term appears and
11 inserting “the Deposit Insurance Fund”;
12 and

13 (ii) in subparagraph (D), by striking
14 “each insurance fund” and inserting “the
15 Fund”;

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

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

22 (A) in paragraph (2), in the matter pre-
23 ceding subparagraph (A), by striking the colon
24 and inserting a dash;

25 (B) in paragraph (3)(A)—

1 (i) by striking “poses a serious threat
2 to the Savings Association Insurance
3 Fund” and inserting “of an insured sav-
4 ings association poses a serious threat to
5 the Deposit Insurance Fund”; and

6 (ii) by striking “Savings Association
7 Insurance Fund member” and inserting
8 “insured savings association”; and

9 (C) in paragraph (3)(C), by striking “Sav-
10 ings Association Insurance Fund or the Bank
11 Insurance Fund” and inserting “Deposit Insur-
12 ance Fund”;

13 (28) in section 18(o) (12 U.S.C. 1828(o)), by
14 striking “deposit insurance funds” and “deposit in-
15 surance fund” each place those terms appear and in-
16 serting “Deposit Insurance Fund”;

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

20 (30) in section 24 (12 U.S.C. 1831a)—

21 (A) in subsections (a)(1) and (d)(1)(A), by
22 striking “appropriate deposit insurance fund”
23 each place that term appears and inserting
24 “Deposit Insurance Fund”;

1 (B) in subsection (e)(2)(A), by striking
2 “risk to” and all that follows through the pe-
3 riod and inserting “risk to the Deposit Insur-
4 ance Fund.”; and

5 (C) in subsections (e)(2)(B)(ii) and
6 (f)(6)(B), by striking “the insurance fund of
7 which such bank is a member” each place that
8 term appears and inserting “the Deposit Insur-
9 ance Fund”;

10 (31) in section 28 (12 U.S.C. 1831e), by strik-
11 ing “affected deposit insurance fund” each place
12 that term appears and inserting “Deposit Insurance
13 Fund”;

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

15 (33) in section 36(i)(3) (12 U.S.C.
16 1831m(i)(3)), by striking “affected deposit insur-
17 ance fund” and inserting “Deposit Insurance
18 Fund”;

19 (34) in section 37(a)(1)(C) (12 U.S.C.
20 1831n(a)(1)(C)), by striking “insurance funds” and
21 inserting “Deposit Insurance Fund”;

22 (35) in section 38 (12 U.S.C. 1831o), by strik-
23 ing “the deposit insurance fund” each place that
24 term appears and inserting “the Deposit Insurance
25 Fund”;

1 (36) in section 38(a) (12 U.S.C. 1831o(a)), in
2 the subsection heading, by striking “FUNDS” and in-
3 serting “FUND”;

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

5 (A) in paragraph (1), by striking “a de-
6 posit insurance fund” and inserting “the De-
7 posit Insurance Fund”;

8 (B) in paragraph (2), by striking “A de-
9 posit insurance fund” and inserting “The De-
10 posit Insurance Fund”; and

11 (C) in paragraphs (2)(A) and (3)(B), by
12 striking “the deposit insurance fund’s outlays”
13 each place that term appears and inserting “the
14 outlays of the Deposit Insurance Fund”; and

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

16 (A) by striking “ASSOCIATIONS.—” and all
17 that follows through “Subsections (e)(2)” in
18 paragraph (2) and inserting “ASSOCIATIONS.—
19 Subsections (e)(2)”;

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

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

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

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

9 **SEC. 2006. OTHER TECHNICAL AND CONFORMING AMEND-**
10 **MENTS.**

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

17 (b) INVESTMENTS PROMOTING PUBLIC WELFARE;
18 LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d
19 undesignated paragraph of section 9 of the Federal Re-
20 serve Act (12 U.S.C. 338a) is amended in the 4th sen-
21 tence, by striking “affected deposit insurance fund” and
22 inserting “Deposit Insurance Fund”.

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

1 amended by striking “any deposit insurance fund in” and
2 inserting “the Deposit Insurance Fund of”.

3 (d) AMENDMENTS TO THE BALANCED BUDGET AND
4 EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section
5 255(g)(1)(A) of the Balanced Budget and Emergency
6 Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is
7 amended—

8 (1) by striking “Bank Insurance Fund” and in-
9 serting “Deposit Insurance Fund”; and

10 (2) by striking “Federal Deposit Insurance Cor-
11 poration, Savings Association Insurance Fund;”.

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

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

16 (A) in the subsection heading, by striking
17 “SAIF” and inserting “THE DEPOSIT INSUR-
18 ANCE FUND”; and

19 (B) by striking “Savings Association In-
20 surance Fund” each place that term appears
21 and inserting “Deposit Insurance Fund”;

22 (2) in section 21 (12 U.S.C. 1441)—

23 (A) in subsection (f)(2), by striking “, ex-
24 cept that” and all that follows through the end
25 of the paragraph and inserting a period; and

1 (B) in subsection (k), by striking para-
2 graph (4);

3 (3) in section 21A(b)(4)(B) (12 U.S.C.
4 1441a(b)(4)(B)), by striking “affected deposit insur-
5 ance fund” and inserting “Deposit Insurance
6 Fund”; and

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

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

13 (1) in section 5 (12 U.S.C. 1464)—

14 (A) in subsection (c)(6), by striking “As
15 used in this subsection—” and inserting “For
16 purposes of this subsection, the following defini-
17 tions shall apply.”;

18 (B) in subsection (o)(1), by striking “that
19 is a Bank Insurance Fund member”;

20 (C) in subsection (o)(2)(A), by striking “a
21 Bank Insurance Fund member until such time
22 as it changes its status to a Savings Association
23 Insurance Fund member” and inserting “in-
24 sured by the Deposit Insurance Fund”;

1 (D) in subsection (t)(5)(D)(iii)(II), by
2 striking “affected deposit insurance fund” and
3 inserting “Deposit Insurance Fund”;

4 (E) in subsection (t)(7)(C)(i)(I), by strik-
5 ing “affected deposit insurance fund” and in-
6 serting “Deposit Insurance Fund”; and

7 (F) in subsection (v)(2)(A)(i), by striking
8 “the Savings Association Insurance Fund” and
9 inserting “or the Deposit Insurance Fund”; and
10 (2) in section 10 (12 U.S.C. 1467a)—

11 (A) in subsection (e)(6)(D), by striking
12 “this title” and inserting “this Act”;

13 (B) in subsection (e)(1)(B), by striking
14 “Savings Association Insurance Fund or Bank
15 Insurance Fund” and inserting “Deposit Insur-
16 ance Fund”;

17 (C) in subsection (e)(2), by striking “Sav-
18 ings Association Insurance Fund or the Bank
19 Insurance Fund” and inserting “Deposit Insur-
20 ance Fund”;

21 (D) in subsection (e)(4)(B), by striking
22 “subsection (1)” and inserting “subsection (l)”;

23 (E) in subsection (g)(3)(A), by striking
24 “(5) of this section” and inserting “(5) of this
25 subsection”;

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

3 (G) in subsection (m)(3), by striking sub-
4 paragraph (E), and by redesignating subpara-
5 graphs (F), (G), and (H) as subparagraphs
6 (E), (F), and (G), respectively;

7 (H) in subsection (m)(7)(A), by striking
8 “during period” and inserting “during the pe-
9 riod”; and

10 (I) in subsection (o)(3)(D), by striking
11 “sections 5(s) and (t) of this Act” and inserting
12 “subsections (s) and (t) of section 5”.

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

16 (1) in section 317(b)(1)(B) (12 U.S.C.
17 1723i(b)(1)(B)), by striking “Bank Insurance Fund
18 for banks or through the Savings Association Insur-
19 ance Fund for savings associations” and inserting
20 “Deposit Insurance Fund”; and

21 (2) in section 536(b)(1)(B)(ii) (12 U.S.C.
22 1735f–14(b)(1)(B)(ii)), by striking “Bank Insurance
23 Fund for banks and through the Savings Association
24 Insurance Fund for savings associations” and insert-
25 ing “Deposit Insurance Fund”.

1 (h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS
2 REFORM, RECOVERY, AND ENFORCEMENT ACT OF
3 1989.—The Financial Institutions Reform, Recovery, and
4 Enforcement Act of 1989 (12 U.S.C. 1811 note) is
5 amended—

6 (1) in section 951(b)(3)(B) (12 U.S.C.
7 1833a(b)(3)(B)), by striking “Bank Insurance
8 Fund, the Savings Association Insurance Fund,”
9 and inserting “Deposit Insurance Fund (or any
10 predecessor deposit insurance fund)”; and

11 (2) in section 1112(c)(1)(B) (12 U.S.C.
12 3341(c)(1)(B)), by striking “Bank Insurance Fund,
13 the Savings Association Insurance Fund,” and in-
14 serting “Deposit Insurance Fund”.

15 (i) AMENDMENT TO THE BANK HOLDING COMPANY
16 ACT OF 1956.—The Bank Holding Company Act of 1956
17 (12 U.S.C. 1841 et seq.) is amended—

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

21 (2) in section 3(d)(1)(D)(iii) (12 U.S.C.
22 1842(d)(1)(D)(iii)), by striking “appropriate deposit
23 insurance fund” and inserting “Deposit Insurance
24 Fund”.

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

7 **SEC. 2007. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Except as otherwise provided in
9 this subtitle, this subtitle and the amendments made by
10 this subtitle shall become effective not later than the first
11 day of the first calendar quarter that begins more than
12 90 days after the date of enactment of this Act.

13 (b) EARLIER IMPLEMENTATION.—

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

19 (A) announce such determination publicly;

20 and

21 (B) establish the effective date of the
22 merger.

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

1 and the amendments made by this subtitle shall be-
2 come effective.

3 **Subtitle B—Deposit Insurance**
4 **Modernization and Improvement**

5 **SEC. 2011. SHORT TITLE.**

6 This subtitle may be cited as the “Deposit Insurance
7 Reform Act of 2005”.

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

10 (a) INSURED DEPOSITORY INSTITUTIONS.—

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

14 (A) by striking subparagraph (B) and in-
15 serting the following:

16 “(B) NET AMOUNT OF INSURED DEPOS-
17 ITS.—The net amount of deposit insurance pay-
18 able to any depositor at an insured depository
19 institution shall not exceed the standard max-
20 imum deposit insurance amount, as determined
21 in accordance with subparagraphs (C) through
22 (M).”; and

23 (B) by striking subparagraph (D) and in-
24 serting the following:

1 “(D) COVERAGE FOR CERTAIN EMPLOYEE
2 BENEFIT PLAN DEPOSITS.—

3 “(i) PASS-THROUGH INSURANCE.—

4 The Corporation shall provide pass-
5 through deposit insurance for the deposits
6 of any employee benefit plan.

7 “(ii) PROHIBITION ON ACCEPTANCE
8 OF BENEFIT PLAN DEPOSITS.—An insured
9 depository institution that is not well cap-
10 italized or adequately capitalized may not
11 accept employee benefit plan deposits.

12 “(iii) DEFINITIONS.—For purposes of
13 this subparagraph, the following definitions
14 shall apply:

15 “(I) CAPITAL STANDARDS.—The
16 terms ‘well capitalized’ and ‘ade-
17 quately capitalized’ have the same
18 meanings as in section 38.

19 “(II) EMPLOYEE BENEFIT
20 PLAN.—The term ‘employee benefit
21 plan’ has the same meaning as in
22 paragraph (5)(B)(ii), and includes any
23 eligible deferred compensation plan
24 described in section 457 of the Inter-
25 nal Revenue Code of 1986.

1 “(III) PASS-THROUGH DEPOSIT
2 INSURANCE.—The term ‘pass-through
3 deposit insurance’ means, with respect
4 to an employee benefit plan, deposit
5 insurance coverage based on the inter-
6 est of each participant, in accordance
7 with regulations issued by the Cor-
8 poration.

9 “(E) STANDARD MAXIMUM DEPOSIT IN-
10 SURANCE AMOUNT DEFINED.—For purposes of
11 this paragraph, the term ‘standard maximum
12 deposit insurance amount’ means, until April 1,
13 2010, \$100,000.

14 “(F) DETERMINATION REGARDING INFLA-
15 TION ADJUSTMENTS.—

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

24 “(ii) ADJUSTMENTS FOR CERTAIN RE-
25 TIREMENT ACCOUNTS.—Not later than

1 April 1, 2010, and the first day of each 5-
2 year period thereafter, the Board of Direc-
3 tors shall determine whether to increase
4 the amount of insurance available for re-
5 tirement accounts under paragraph (3),
6 based on the factors set forth under sub-
7 paragraph (G).

8 “(G) INFLATION ADJUSTMENT CONSIDER-
9 ATIONS.—In making any determination under
10 subparagraph (F), the Board of Directors shall
11 consider—

12 “(i) the economic conditions affecting
13 insured depository institutions;

14 “(ii) the overall risk or risks to the
15 Deposit Insurance Fund;

16 “(iii) a demonstrated need by deposi-
17 tors for the inflation adjustment increase;

18 “(iv) the ability of insured depository
19 institutions to identify and obtain alter-
20 native funding sources;

21 “(v) the ability of insured depository
22 institutions to meet the credit needs of
23 their communities;

24 “(vi) potential problems affecting in-
25 sured depository institutions generally or a

1 specific group or type of insured depository
2 institutions; and

3 “(vii) any other factors that the
4 Board of Directors deems appropriate.

5 “(H) INFLATION ADJUSTMENT CALCULA-
6 TIONS FOR 2010.—

7 “(i) CALCULATION FOR STANDARD
8 MAXIMUM DEPOSIT INSURANCE AMOUNT.—

9 The amount provided for any increase in
10 the standard maximum deposit insurance
11 amount shall be, as of April 1, 2010, the
12 product of—

13 “(I) \$100,000; and

14 “(II) the ratio of the value of the
15 Personal Consumption Expenditures
16 Chain-Type Index (or any successor
17 index thereto), published by the De-
18 partment of Commerce, for December
19 31 of the year preceding the year in
20 which the adjustment is calculated
21 under this subparagraph, to the value
22 of such index for December 31 of the
23 year preceding the effective date of
24 the Safe and Fair Deposit Insurance
25 Act of 2005.

1 “(ii) CALCULATION FOR CERTAIN RE-
2 TIREMENT ACCOUNTS FOR 2010.—The
3 amount provided for any increase in the in-
4 surance for retirement accounts under
5 paragraph (3) shall be, as of April 1,
6 2010, the product of—

7 “(I) \$250,000; and

8 “(II) the ratio of the value of the
9 Personal Consumption Expenditures
10 Chain-Type Index (or any successor
11 index thereto), published by the De-
12 partment of Commerce, for December
13 31 of the year preceding the year in
14 which the adjustment is calculated
15 under this subparagraph, to the value
16 of such index for December 31 of the
17 year preceding the effective date of
18 the Safe and Fair Deposit Insurance
19 Act of 2005.

20 “(I) INFLATION ADJUSTMENT CALCULA-
21 TIONS AFTER 2010.—

22 “(i) CALCULATION FOR THE STAND-
23 ARD MAXIMUM DEPOSIT INSURANCE
24 AMOUNT.—The amount provided for any
25 increase in the standard maximum deposit

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

4 “(I) the standard maximum de-
5 posit insurance amount; and

6 “(II) the ratio of the value of the
7 Personal Consumption Expenditures
8 Chain-Type Index (or any successor
9 index thereto), published by the De-
10 partment of Commerce, for December
11 31 of the year preceding the year in
12 which the adjustment is calculated
13 under this subparagraph, to the value
14 of such index for December 31 of the
15 6 years prior to the year in which the
16 adjustment is calculated under this
17 subparagraph.

18 “(ii) CALCULATION FOR CERTAIN RE-
19 TIREMENT ACCOUNTS.—The amount pro-
20 vided for any increase in the insurance for
21 retirement accounts under paragraph (3)
22 shall be, as of the 1st day of each 5-year
23 period beginning on April 1, 2015, the
24 product of—

1 “(I) the amount available for re-
2 tirement accounts under paragraph
3 (3), as adjusted pursuant to subpara-
4 graph (H) or this subparagraph, as
5 appropriate; and

6 “(II) the ratio of the value of the
7 Personal Consumption Expenditures
8 Chain-Type Index (or any successor
9 index thereto), published by the De-
10 partment of Commerce, for December
11 31 of the year preceding the year in
12 which the adjustment is calculated
13 under this subparagraph, to the value
14 of such index for December 31 of the
15 6 years prior to the year in which the
16 adjustment is calculated under this
17 subparagraph.

18 “(J) DETERMINATION OF NO INFLATION
19 INCREASES.—If the Board cannot support an
20 increase under subparagraph (F) after consid-
21 eration of the factors in subparagraph (G), no
22 inflation adjustment shall be made until recon-
23 sideration at the beginning of the next 5-year
24 period.

1 “(K) ROUNDING.—If the amount of in-
2 crease determined for any period is not a mul-
3 tiple of \$10,000, the amount so determined
4 shall be rounded to the nearest \$10,000.

5 “(L) PUBLICATION.—Not later than April
6 1, 2010, and not later than the first day of
7 each 5-year period thereafter, the Board of Di-
8 rectors shall publish in the Federal Register the
9 standard maximum deposit insurance amount
10 and the amount of deposit insurance coverage
11 that may be due to any depositor at any in-
12 sured depository institution during the applica-
13 ble 5-year period.

14 “(M) NO INFLATION ADJUSTMENTS FOR
15 PUBLIC FUNDS.—Subparagraphs (E) through
16 (L) shall not apply to any deposits of depositors
17 described in paragraph (2), and the net amount
18 due to any such depositor at an insured deposi-
19 tory institution shall not exceed \$100,000.”.

20 (2) DEPOSIT INSURANCE FOR RETIREMENT AC-
21 COUNTS.—Section 11(a)(3)(A) of the Federal De-
22 posit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is
23 amended—

24 (A) by striking “\$100,000” and inserting
25 “\$250,000”; and

1 (B) by inserting before the period at the
 2 end the following: “which amount shall be sub-
 3 ject to inflation adjustments as provided in
 4 paragraph (1).”.

5 (3) TECHNICAL AND CONFORMING AMENDMENT
 6 RELATING TO INSURANCE OF TRUST FUNDS.—Sec-
 7 tion 7(i) of the Federal Deposit Insurance Act (12
 8 U.S.C. 1817(i)) is amended in each of paragraphs
 9 (1) and (3), by striking “\$100,000” each place it
 10 appears and inserting “the standard maximum de-
 11 posit insurance amount (as determined under section
 12 11(a)(1))”.

13 (4) OTHER TECHNICAL AND CONFORMING
 14 AMENDMENTS.—The Federal Deposit Insurance Act
 15 (12 U.S.C. 1811 et seq.) is amended—

16 (A) in section 11(m)(6) (12 U.S.C.
 17 1821(m)(6)), by striking “\$100,000” and in-
 18 serting “the standard maximum deposit insur-
 19 ance amount (as determined under subsection
 20 (a)(1))”;

21 (B) in section 18 (12 U.S.C. 1828), by
 22 striking subsection (a) and inserting the fol-
 23 lowing:

24 “(a) INSURANCE LOGO.—

25 “(1) INSURED DEPOSITORY INSTITUTIONS.—

1 “(A) IN GENERAL.—Each insured deposi-
2 tory institution shall display at each place of
3 business maintained by that institution a sign
4 or signs relating to the insurance of the depos-
5 its of the institution, in accordance with regula-
6 tions to be prescribed by the Corporation.

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

12 “(2) REGULATIONS.—The Corporation shall
13 prescribe regulations to carry out this subsection, in-
14 cluding regulations governing the substance of signs
15 required by paragraph (1) and the manner of dis-
16 play or use of such signs.

17 “(3) PENALTIES.—For each day that an in-
18 sured depository institution continues to violate this
19 subsection or any regulation issued under this sub-
20 section, it shall be subject to a penalty of not more
21 than \$100, which the Corporation may recover for
22 its use.”; and

23 (C) in section 43(d) (12 U.S.C. 1831t(d)),
24 by striking “\$100,000” and inserting “the

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

3 (b) INSURED CREDIT UNIONS.—

4 (1) IN GENERAL.—Section 207(k) of the Fed-
5 eral Credit Union Act (12 U.S.C. 1787(k)) is
6 amended—

7 (A) by striking “(k)(1)” and all that fol-
8 lows through the end of paragraph (1) and in-
9 serting the following:

10 “(k) INSURED AMOUNTS PAYABLE.—

11 “(1) NET INSURED AMOUNT.—

12 “(A) IN GENERAL.—Subject to the provi-
13 sions of paragraph (2), the net amount of share
14 insurance payable to any member at an insured
15 credit union shall not exceed the total amount
16 of the shares or deposits in the name of the
17 member (after deducting offsets), less any part
18 thereof which is in excess of the standard max-
19 imum share insurance amount, as determined
20 in accordance with this paragraph and para-
21 graphs (5) and (6), and consistent with actions
22 taken by the Federal Deposit Insurance Cor-
23 poration under section 11(a) of the Federal De-
24 posit Insurance Act.

1 “(B) AGGREGATION.—Determination of
 2 the net amount of share insurance under sub-
 3 paragraph (A), shall be in accordance with such
 4 regulations as the Board may prescribe, and, in
 5 determining the amount payable to any mem-
 6 ber, there shall be added together all accounts
 7 in the credit union maintained by that member
 8 for that member’s own benefit, either in the
 9 member’s own name or in the names of others.

10 “(C) AUTHORITY TO DEFINE THE EXTENT
 11 OF COVERAGE.—The Board may define, with
 12 such classifications and exceptions as it may
 13 prescribe, the extent of the share insurance cov-
 14 erage provided for member accounts, including
 15 member accounts in the name of a minor, in
 16 trust, or in joint tenancy.”;

17 (B) by adding at the end the following:

18 “(4) COVERAGE FOR CERTAIN EMPLOYEE BEN-
 19 EFIT PLAN DEPOSITS.—

20 “(A) PASS-THROUGH INSURANCE.—The
 21 Administration shall provide pass-through share
 22 insurance for the deposits or shares of any em-
 23 ployee benefit plan, subject to subparagraph
 24 (B).

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

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

7 “(i) CAPITAL STANDARDS.—The
8 terms ‘well capitalized’ and ‘adequately
9 capitalized’ have the same meanings as in
10 section 216(c), as added by section 301 of
11 the Credit Union Membership Access Act
12 (Public Law 105–219, 112 Stat. 931).

13 “(ii) EMPLOYEE BENEFIT PLAN.—
14 The term ‘employee benefit plan’—

15 “(I) has the same meaning as in
16 section 3(3) of the Employee Retirement
17 Income Security Act of 1974;

18 “(II) includes any plan described
19 in section 401(d) of the Internal Revenue
20 Code of 1986; and

21 “(III) includes any eligible de-
22 ferred compensation plan described in
23 section 457 of the Internal Revenue
24 Code of 1986.

1 “(iii) PASS-THROUGH SHARE INSUR-
2 ANCE.—The term ‘pass-through share in-
3 surance’ means, with respect to an em-
4 ployee benefit plan, insurance coverage
5 based on the interest of each participant,
6 in accordance with regulations issued by
7 the Corporation.

8 “(5) STANDARD MAXIMUM SHARE INSURANCE
9 AMOUNT DEFINED.—For purposes of this sub-
10 section, the term ‘standard maximum share insur-
11 ance amount’ means, until April 1, 2010, \$100,000.

12 “(6) DETERMINATIONS REGARDING INFLATION
13 ADJUSTMENTS.—

14 “(A) ADJUSTMENTS TO STANDARD MAX-
15 IMUM SHARE INSURANCE AMOUNT.—Not later
16 than April 1, 2010, and the first day of each
17 5-year period thereafter, the Board shall deter-
18 mine whether to increase the standard max-
19 imum share insurance amount based on the fac-
20 tors set forth under paragraph (7).

21 “(B) ADJUSTMENT FOR CERTAIN RETIRE-
22 MENT ACCOUNTS.—Not later than April 1,
23 2010, and the first day of each 5-year period
24 thereafter, the Board shall determine whether
25 to increase the amount of insurance available

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

4 “(7) INFLATION ADJUSTMENT CONSIDER-
 5 ATIONS.—In making any determination under para-
 6 graph (6), the Board shall consider—

7 “(A) the economic conditions affecting in-
 8 sured credit unions;

9 “(B) the overall risk or risks to the Na-
 10 tional Credit Union Share Insurance Fund;

11 “(C) a demonstrated need by members for
 12 the inflation adjustment increase;

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

15 “(E) the ability of insured credit unions to
 16 meet the credit needs of their communities;

17 “(F) potential problems affecting insured
 18 credit unions generally or a specific group or
 19 type of insured credit unions; and

20 “(G) any other factors that the Board
 21 deems appropriate.

22 “(8) INFLATION ADJUSTMENT CALCULATIONS
 23 FOR 2010.—

24 “(A) CALCULATION FOR STANDARD MAX-
 25 IMUM SHARE INSURANCE AMOUNT.—The

1 amount provided for any increase in the stand-
2 ard maximum share insurance amount shall be,
3 as of April 1, 2010, the product of—

4 “(i) \$100,000; and

5 “(ii) the ratio of the value of the Per-
6 sonal Consumption Expenditures Chain-
7 Type Index (or any successor index there-
8 to), published by the Department of Com-
9 merce, for December 31 of the year pre-
10 ceding the year in which the adjustment is
11 calculated under this paragraph, to the
12 value of such index for December 31 of the
13 year preceding the effective date of the
14 Safe and Fair Deposit Insurance Act of
15 2005.

16 “(B) CALCULATION FOR CERTAIN RETIRE-
17 MENT ACCOUNTS FOR 2010.—The amount pro-
18 vided for any increase in the insurance for re-
19 tirement accounts under paragraph (3) shall be,
20 as of April 1, 2010, the product of—

21 “(i) \$250,000; and

22 “(ii) the ratio of the value of the Per-
23 sonal Consumption Expenditures Chain-
24 Type Index (or any successor index there-
25 to), published by the Department of Com-

1 merce, for December 31 of the year pre-
2 ceding the year in which the adjustment is
3 calculated under this paragraph, to the
4 value of such index for December 31 of the
5 year preceding the effective date of the
6 Safe and Fair Deposit Insurance Act of
7 2005.

8 “(9) INFLATION ADJUSTMENT CALCULATIONS
9 AFTER 2010.—

10 “(A) CALCULATION FOR THE STANDARD
11 MAXIMUM SHARE INSURANCE AMOUNT.—The
12 amount provided for any increase in the stand-
13 ard maximum share insurance amount shall be,
14 as of the 1st day of each 5-year period begin-
15 ning on April 1, 2015, the product of—

16 “(i) the standard maximum share in-
17 surance amount; and

18 “(ii) the ratio of the value of the Per-
19 sonal Consumption Expenditures Chain-
20 Type Index (or any successor index there-
21 to), published by the Department of Com-
22 merce, for December 31 of the year pre-
23 ceding the year in which the adjustment is
24 calculated under this paragraph, to the
25 value of such index for December 31 of the

1 6 years prior to the year in which the ad-
2 justment is calculated under this para-
3 graph.

4 “(B) CALCULATION FOR CERTAIN RETIRE-
5 MENT ACCOUNTS.—The amount provided for
6 any increase in the insurance for retirement ac-
7 counts under paragraph (3) shall be, as of the
8 1st day of each 5-year period beginning on
9 April 1, 2015, the product of—

10 “(i) the amount available for retire-
11 ment accounts under paragraph (3), as ad-
12 justed pursuant to paragraph (8) or this
13 paragraph, as appropriate; and

14 “(ii) the ratio of the value of the Per-
15 sonal Consumption Expenditures Chain-
16 Type Index (or any successor index there-
17 to), published by the Department of Com-
18 merce, for December 31 of the year pre-
19 ceding the year in which the adjustment is
20 calculated under this paragraph, to the
21 value of such index for December 31 of the
22 6 years prior to the year in which the ad-
23 justment is calculated under this para-
24 graph.

1 “(10) DETERMINATION OF NO INFLATION IN-
2 CREASE.—If the Board cannot support an increase
3 under paragraph (6) after consideration of the fac-
4 tors in paragraph (7), no inflation adjustment shall
5 be made until reconsideration at the beginning of
6 the next 5-year period.

7 “(11) ROUNDING.—If the amount of increase
8 determined for any period is not a multiple of
9 \$10,000, the amount so determined shall be rounded
10 to the nearest \$10,000.

11 “(12) PUBLICATION.—Not later than April 1,
12 2010, and not later than the first day of each 5-year
13 period thereafter, the Board shall publish in the
14 Federal Register the standard maximum share in-
15 surance amount and the amount of share insurance
16 coverage that may be due to any depositor at any in-
17 sured credit union during the applicable 5-year pe-
18 riod.

19 “(13) NO INFLATION ADJUSTMENTS FOR PUB-
20 LIC FUNDS.—Paragraphs (5) through (12) shall not
21 apply to any deposits of depositors described in
22 paragraph (2), and the net amount due to any such
23 depositor at an insured credit union shall not exceed
24 \$100,000.”; and

1 (C) in paragraph (3), by striking
2 “\$100,000 per account” and inserting the fol-
3 lowing: “\$250,000 per account, which amount
4 shall be subject to inflation adjustments as pro-
5 vided in paragraphs (6) through (12).”.

6 (2) TECHNICAL AMENDMENT.—Section 202(h)
7 of the Federal Credit Union Act (12 U.S.C.
8 1782(h)) is amended by striking “207(c)(1)” and in-
9 serting “207(k)”.

10 (c) EFFECTIVE DATE.—Except as otherwise specifi-
11 cally provided in this section or the amendments made by
12 this section, this section and such amendments shall be-
13 come effective on the effective date of the regulations re-
14 quired under section 2017(a)(2), relating to the implemen-
15 tation of deposit insurance changes under this section.

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

17 (a) REPEAL OF RECAPITALIZATION SCHEDULE.—

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

21 “(3) DESIGNATED RESERVE RATIO.—

22 “(A) ACTION BY THE BOARD.—

23 “(i) IN GENERAL.—Before the begin-
24 ning of each calendar year, the Board of
25 Directors shall, subject to clause (ii)—

1 “(I) designate the reserve ratio
2 applicable to the Deposit Insurance
3 Fund for that year; and

4 “(II) publish the reserve ratio so
5 designated.

6 “(ii) RULEMAKING.—Any change to
7 the designated reserve ratio for any cal-
8 endar year shall be made pursuant to sec-
9 tion 553 of title 5, United States Code.

10 “(B) RANGE.—The reserve ratio des-
11 ignated by the Board of Directors for any
12 year—

13 “(i) may not exceed 1.50 percent; and

14 “(ii) may not be less than 1.15 per-
15 cent.

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

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

22 “(ii) take into account economic con-
23 ditions generally affecting insured deposi-
24 tory institutions, to provide for an increase
25 in the designated reserve ratio during more

1 favorable economic conditions and to pro-
2 vide for a decrease in the designated re-
3 serve ratio during less favorable economic
4 conditions, notwithstanding the increased
5 risks of loss that may exist during such
6 less favorable conditions, as determined to
7 be appropriate by the Board;

8 “(iii) seek to prevent sharp swings in
9 the assessment rates for insured depository
10 institutions; and

11 “(iv) take into account such other fac-
12 tors as the Board of Directors may deter-
13 mine to be appropriate, consistent with the
14 requirements of this subparagraph.”.

15 (2) TECHNICAL AND CONFORMING AMEND-
16 MENTS.—Section 3(y) of the Federal Deposit Insur-
17 ance Act (12 U.S.C. 1813), as amended by this title,
18 is amended by adding at the end the following:

19 “(2) RESERVE RATIO.—The term ‘reserve ratio’
20 means the ratio of the fund balance of the Deposit
21 Insurance Fund to aggregate estimated insured de-
22 posits held in all insured depository institutions.

23 “(3) DESIGNATED RESERVE RATIO.—The term
24 ‘designated reserve ratio’ means the reserve ratio

1 designated by the Board of Directors under section
2 7(b)(3).”.

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

9 (4) DESIGNATION OF INITIAL RESERVE RATIO
10 FOR DEPOSIT INSURANCE FUND.—During the period
11 beginning on the effective date of the merger of the
12 deposit insurance funds under section 2003, and
13 ending on the effective date of final regulations des-
14 ignating the reserve ratio, as required by section
15 2017(a)(1), the designated reserve ratio of the De-
16 posit Insurance Fund shall continue to be deter-
17 mined pursuant to section 7(b)(2)(A)(iv), as in ef-
18 fect on the day before the effective date of the merg-
19 er under section 2003.

20 (b) REQUIREMENTS APPLICABLE TO ANY MODIFICA-
21 TION OF THE RISK-BASED ASSESSMENT SYSTEM.—Sec-
22 tion 7(b)(1) of the Federal Deposit Insurance Act (12
23 U.S.C. 1817(b)(1)) is amended by adding at the end the
24 following:

1 “(E) REQUIREMENTS APPLICABLE TO ANY
2 MODIFICATION OF THE RISK-BASED ASSESS-
3 MENT SYSTEM.—

4 “(i) IN GENERAL.—In revising or
5 modifying the risk-based assessment sys-
6 tem at any time after the date of enact-
7 ment of the Deposit Insurance Reform Act
8 of 2005, the Board of Directors—

9 “(I) may not make any change to
10 the information collected from or re-
11 quired to be retained by insured de-
12 pository institutions solely for pur-
13 poses of the assessment risk classifica-
14 tion, as defined by regulations of the
15 Board, if the change would result in
16 the imposition of an overall greater
17 regulatory or reporting burden on in-
18 sured depository institutions than was
19 the case before that date of enact-
20 ment; and

21 “(II) may implement any such
22 revision or modification in final form
23 only after notice and opportunity for
24 comment.

1 “(ii) RULE OF CONSTRUCTION.—An
2 increase in an assessment rate or a revi-
3 sion of the assessment base shall not be
4 considered to be a revision or modification
5 resulting in greater regulatory or reporting
6 burden for purposes of this subpara-
7 graph.”.

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

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

12 “(2) ONE-TIME CREDIT BASED ON TOTAL AS-
13 SESSMENT BASE AT YEAR-END 1996.—

14 “(A) IN GENERAL.—The Board of Direc-
15 tors shall, by regulation, provide for a credit to
16 each insured depository institution that was in
17 existence on December 31, 1996, and that had
18 paid a deposit insurance assessment prior to
19 that date (or a successor insured depository in-
20 stitution), based on the assessment base of the
21 institution on that date, as compared to the
22 combined aggregate assessment base of all such
23 institutions, taking into account such factors as
24 the Board may determine to be appropriate.

1 “(B) CREDIT LIMIT.—The aggregate
2 amount of credits available under subparagraph
3 (A) to all insured depository institutions that
4 are eligible for the credit shall not exceed the
5 amount that the Corporation could collect if it
6 imposed an assessment of 9 basis points on the
7 combined assessment base of the Bank Insur-
8 ance Fund and the Savings Association Insur-
9 ance Fund as of December 31, 2001.

10 “(C) DEFINITION OF SUCCESSOR.—The
11 Corporation shall define the term ‘successor’ for
12 purposes of this paragraph, by regulation, and
13 may consider, among other factors and as the
14 Board may deem appropriate, whether and to
15 what extent, if any, an insured depository insti-
16 tution that acquires deposits from another in-
17 sured depository institution may deemed to be
18 a successor.

19 “(D) APPLICATION OF CREDITS.—The
20 amount of a credit to any insured depository in-
21 stitution under this paragraph may be applied
22 by the Corporation to those portions of the as-
23 sessments under subsection (b) applicable to
24 that institution which become due for assess-

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

3 (b) AMENDMENTS TO SECTION 7.—Section 7(e) of
4 the Federal Deposit Insurance Act (12 U.S.C. 1817(e))
5 is amended by adding at the end the following new para-
6 graphs:

7 “(3) DIVIDENDS.—

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

17 “(B) AMOUNT EQUAL TO OR IN EXCESS OF
18 1.40 PERCENT OF ESTIMATED INSURED DEPOS-
19 ITS AND NOT MORE THAN 1.50 PERCENT.—The
20 Corporation shall provide cash dividends to in-
21 sured depository institutions in accordance with
22 this paragraph if the reserve ratio of the De-
23 posit Insurance Fund equals or exceeds 1.40
24 and is not more than 1.50 percent, and that
25 amount shall equal 50 percent of the amount in

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

4 “(C) FACTORS FOR CONSIDERATION FOR
5 ALLOCATION OF DIVIDENDS.—In implementing
6 the provisions of this paragraph, and in accord-
7 ance with its regulations, the Corporation shall
8 consider—

9 “(i) the ratio of the assessment base
10 of an insured depository institution (in-
11 cluding any predecessor institution) on De-
12 cember 31, 1996, to the assessment base
13 of all eligible insured depository institu-
14 tions on such date;

15 “(ii) the total amount of assessments
16 paid on or after January 1, 1997, by an
17 insured depository institution (including
18 any predecessor institution) to the Deposit
19 Insurance Fund (and any predecessor de-
20 posit insurance fund);

21 “(iii) that portion of assessments paid
22 by an insured depository institution (in-
23 cluding any predecessor institution) that
24 reflects higher levels of risk assumed by
25 such institution; and

1 “(iv) such other factors as the Cor-
2 poration determines appropriate.

3 “(D) LIMITATION.—The Board of Direc-
4 tors may suspend or limit dividends paid under
5 subparagraph (B) if the Board determines in
6 writing that—

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

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

14 “(I) to grow without requiring
15 dividends under subparagraph (B); or

16 “(II) to exceed the maximum
17 amount established under subsection
18 (b)(3)(B)(i).

19 “(E) CONSIDERATIONS.—In making a de-
20 termination under subparagraph (D), the Board
21 shall consider—

22 “(i) national and regional conditions
23 and their impact on insured depository in-
24 stitutions;

1 “(ii) potential problems affecting in-
2 sured depository institutions or a specific
3 group or type of depository institution;

4 “(iii) the degree to which the contin-
5 gent liability of the Corporation for antici-
6 pated failures of insured institutions ade-
7 quately addresses concerns over funding
8 levels in the Deposit Insurance Fund; and

9 “(iv) any other factors that the Board
10 determines are appropriate.

11 “(F) REPORT TO CONGRESS.—

12 “(i) SUBMISSION.—Any determination
13 under subparagraph (D) shall be submitted
14 to the Committee on Banking, Housing,
15 and Urban Affairs of the Senate and the
16 Committee on Financial Services of the
17 House of Representatives, not later than
18 270 days after making such determination.

19 “(ii) CONTENT.—The report sub-
20 mitted under clause (i) shall include—

21 “(I) a detailed explanation for
22 the determination; and

23 “(II) a discussion of the factors
24 required to be considered under sub-
25 paragraph (E).

1 “(G) REVIEW OF DETERMINATION.—

2 “(i) ANNUAL REVIEW.—A determina-
3 tion to suspend or limit dividends under
4 subparagraph (D) shall be reviewed by the
5 Board of Directors annually.

6 “(ii) ACTION BY BOARD.—Based on
7 each annual review under clause (i), the
8 Board of Directors shall either renew or
9 remove a determination to suspend or limit
10 dividends under subparagraph (D), or shall
11 make a new determination in accordance
12 with this paragraph. Unless justified under
13 the terms of the renewal or new determina-
14 tion, the Corporation shall be required to
15 provide cash dividends under subparagraph
16 (A) or (B), as appropriate.

17 “(4) CHALLENGES TO CREDIT OR DIVIDEND
18 AMOUNTS.—The regulations required under this sub-
19 section shall include provisions allowing an insured
20 depository institution a reasonable opportunity to
21 challenge administratively the amount of its credit
22 or dividend under this subsection. The determination
23 of the Corporation of the amount of the credit or
24 dividend following such challenge shall be final, and
25 not subject to judicial review.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall become effective on the effective date of
3 the regulations required to be issued under section
4 2017(a)(3), relating to implementation of the one-time as-
5 sessment credit.

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

8 (a) RECORDS RETENTION.—Paragraph (5) of section
9 7(b) of the Federal Deposit Insurance Act (12 U.S.C.
10 1817(b)) is amended to read as follows:

11 “(5) RECORDS TO BE MAINTAINED BY INSURED
12 DEPOSITORY INSTITUTION.—Each insured depository
13 institution shall maintain all records that the
14 Corporation may require for verifying the correct-
15 ness of the institution’s assessments until the later
16 of—

17 “(A) 3 years from the due date of each as-
18 sessment payment; or

19 “(B) the date of the final determination of
20 any dispute between the insured depository in-
21 stitution and the Corporation over the amount
22 of any assessment.”.

23 (b) STATUTE OF LIMITATIONS FOR ASSESSMENT AC-
24 TIONS.—Subsection (g) of section 7 of the Federal Deposit

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

3 “(g) STATUTE OF LIMITATIONS FOR ASSESSMENT
4 ACTIONS.—The Corporation, in any court of competent
5 jurisdiction, shall be entitled to recover from any insured
6 depository institution the amount of any unpaid assess-
7 ment lawfully payable by such insured depository institu-
8 tion. Notwithstanding any other provision in Federal law,
9 or the law of any State—

10 “(1) any action by an insured depository insti-
11 tution to recover from the Corporation the overpaid
12 amount of any assessment shall be brought within 3
13 years after the date the assessment payment was
14 due, subject to the exception in paragraph (5);

15 “(2) any action by the Corporation to recover
16 from an insured depository institution the underpaid
17 amount of any assessment shall be brought within 3
18 years after the date the assessment payment was
19 due, subject to the exceptions in paragraphs (3) and
20 (5);

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

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

3 “(4) assessment deposit information contained
4 in records no longer required to be maintained pur-
5 suant to subsection (b)(5) shall be considered con-
6 clusive and not subject to change; and

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

12 **SEC. 2016. INCREASE IN FEES FOR LATE ASSESSMENT PAY-**
13 **MENTS.**

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

16 (1) by striking “Any insured depository institu-
17 tion” and inserting “(1) IN GENERAL.—Any insured
18 depository institution”;

19 (2) in paragraph (1), as redesignated, by strik-
20 ing “penalty of not more than \$100” and inserting
21 “penalty in an amount of not more than 1 percent
22 of the amount of the assessment due”; and

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

1 “(2) EXCEPTION FOR SMALL ASSESSMENT
2 AMOUNTS.—Notwithstanding paragraph (1), if the
3 amount of the assessment for an insured depository
4 institution is less than \$10,000 at the time such in-
5 stitution fails or refuses to pay the assessment, such
6 institution shall be subject to a penalty of not more
7 than \$100 for each day that such violation con-
8 tinues.

9 “(3) AUTHORITY TO MODIFY OR REMIT PEN-
10 ALTY.—The Corporation, in the sole discretion of
11 the Corporation, may compromise, modify, or remit
12 any penalty which the Corporation may assess or
13 has already assessed under paragraph (1) or (2)
14 upon a finding that good cause prevented the timely
15 payment of an assessment.”.

16 **SEC. 2017. REGULATIONS REQUIRED.**

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

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

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

3 (2) implementing changes in deposit insurance
4 coverage in accordance with the amendments made
5 by section 2012, which regulations shall become ef-
6 fective not later than 90 days after the date of their
7 publication in final form;

8 (3) implementing the one-time assessment cred-
9 it to certain insured depository institutions in ac-
10 cordance with section 7(e)(2) of the Federal Deposit
11 Insurance Act, as amended by section 2014 of this
12 subtitle;

13 (4) establishing the qualifications and proce-
14 dures under which the Corporation may provide divi-
15 dends under section 7(e)(3) of the Federal Deposit
16 Insurance Act, as amended by section 2014 of this
17 subtitle; and

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

23 (b) SAVINGS CLAUSE.—

24 (1) IN GENERAL.—

1 (A) CONTINUATION OF EXISTING ASSESS-
2 MENT REGULATIONS.—Nothing in this title or
3 the amendments made by this title shall be con-
4 strued to affect the authority of the Corpora-
5 tion with regard to the setting or collection of
6 deposit insurance assessments pursuant to any
7 regulations in effect prior to the effective date
8 of any regulations required under subsection
9 (a).

10 (B) TREATMENT OF DIF MEMBERS UNDER
11 EXISTING REGULATIONS.—Assessment regula-
12 tions in effect prior to the date of enactment of
13 this title shall be read as applying to members
14 of the Deposit Insurance Fund rather than
15 members of the Bank Insurance Fund or Sav-
16 ings Association Insurance Fund, effective on
17 or after the date on which merger of the deposit
18 insurance funds becomes effective under title I.

19 (2) SETTING ASSESSMENTS.—Clause (i) of sec-
20 tion 7(b)(2)(A) of the Federal Deposit Insurance
21 Act (12 U.S.C. 1817(b)(2)(A)) is amended by strik-
22 ing “necessary—” and all that follows through the
23 period at the end and inserting “necessary.”.

1 **SEC. 2018. STUDIES OF POTENTIAL CHANGES TO THE FED-**
2 **ERAL DEPOSIT INSURANCE SYSTEM.**

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

4 (1) STUDY.—The Board of Directors of the
5 Federal Deposit Insurance Corporation and the Na-
6 tional Credit Union Administration Board shall each
7 conduct a study of—

8 (A) the feasibility of increasing the limit
9 on deposit insurance for deposits of municipali-
10 ties and other units of general local govern-
11 ment, and the potential benefits and the poten-
12 tial adverse consequences that may result from
13 any such increase; and

14 (B) the feasibility of establishing a vol-
15 untary deposit insurance system for deposits in
16 excess of the maximum amount of deposit in-
17 surance for any depositor, and the potential
18 benefits and the potential adverse consequences
19 that may result from the establishment of any
20 such system.

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

1 the findings and conclusions of the reporting agency,
 2 together with such recommendations for legislative
 3 or administrative changes as the agency may deter-
 4 mine to be appropriate.

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

7 (1) STUDY.—The Corporation shall conduct a
 8 study on the feasibility of using alternatives to esti-
 9 mated insured deposits in calculating the reserve
 10 ratio of the Deposit Insurance Fund.

11 (2) REPORT.—Not later than 1 year after the
 12 date of enactment of this title, the Board shall sub-
 13 mit a report to Congress on the results of the study
 14 required under paragraph (1), together with such
 15 recommendations for legislative or administrative ac-
 16 tions as may be determined to be appropriate.

17 **SEC. 2019. EFFECTIVE DATE.**

18 Except as otherwise specifically provided in this sub-
 19 title, this subtitle and the amendments made by this sub-
 20 title shall become effective on the date of enactment of
 21 this Act.

22 **Subtitle C—FHA Asset Disposition**

23 **SEC. 2021. SHORT TITLE.**

24 This subtitle may be cited as the “FHA Asset Dis-
 25 position Act of 2005”.

1 **SEC. 2022. DEFINITIONS.**

2 For purposes of this subtitle—

3 (1) the term “affordability requirement” means
4 any requirement or restriction imposed by the Sec-
5 retary, at the time of sale, on any multifamily real
6 property or multifamily loan, including a use restric-
7 tion, rent restriction, or rehabilitation requirement;

8 (2) the term “discount sale” means the sale of
9 multifamily real property in a transaction, including
10 a negotiated sale, in which the sale price is—

11 (A) lower than the property market value;

12 and

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

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

21 (4) the term “loan market value” means the
22 value of a multifamily loan, without taking into ac-
23 count any affordability requirements;

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

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

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

9 (7) the term “property market value” means
10 the value of any multifamily real property for its
11 current use, without taking into account any afford-
12 ability requirements; and

13 (8) the term “Secretary” means the Secretary
14 of Housing and Urban Development.

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

17 (a) DISPOSITIONS BY SECRETARY.—Notwithstanding
18 any other provision of law, other than any statutory af-
19 fordability requirement for the elderly and disabled, dis-
20 position by the Secretary of any multifamily real property
21 through a discount sale under section 207(l) or 246 of
22 the National Housing Act, section 203 of the Housing and
23 Community Development Amendments of 1978, or section
24 204 of the Departments of Veterans Affairs and Housing
25 and Urban Development, and Independent Agencies Ap-

1 appropriations Act, 1997, shall be subject to the availability
2 of appropriations to the extent that the property value ex-
3 ceeds the sale proceeds. If the multifamily real property
4 is sold for an amount equal to or greater than the property
5 market value, the transaction is not subject to the avail-
6 ability of appropriations.

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

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

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

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

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

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

10 (1) by striking paragraph (4); and

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

13 (c) LIMITATION.—The amendments made by this sec-
 14 tion shall not apply to any grant in connection with any
 15 transaction that formally commences during the 1-year pe-
 16 riod preceding the date of enactment of this Act.

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

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

20 **TITLE III—COMMITTEE ON COM-**
 21 **MERCE, SCIENCE, AND**
 22 **TRANSPORTATION**

23 **SEC. 3001. SHORT TITLE.**

24 This title may be cited as the “Digital Transition and
 25 Public Safety Act of 2005.”.

1 **SEC. 3002. ANALOG SPECTRUM RECOVERY; HARD DEAD-**
2 **LINE.**

3 Section 309(j)(14) of the Communications Act of
4 1934 (47 U.S.C. 309(j)(14)) is amended—

5 (1) by striking “December 31, 2006.” in sub-
6 paragraph (A) and inserting “April 7, 2009.”;

7 (2) by striking subparagraph (B);

8 (3) by striking “or (B)” in subparagraph
9 (C)(i)(I);

10 (4) by striking “(C)(i),” in subparagraph (D)
11 and inserting “(B)(i),”; and

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

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

15 (a) AUCTION: DATE, APPLICABLE REQUIRE-
16 MENTS.—Section 309(j)(15)(C) of the Communications
17 Act of 1934 (47 U.S.C. 309(j)(15)(C)) is amended by add-
18 ing at the end the following:

19 “(v) ADDITIONAL DEADLINES FOR RE-
20 COVERED ANALOG SPECTRUM.—Notwith-
21 standing subparagraph (B), the Commis-
22 sion shall—

23 “(I) conduct the auction of the li-
24 censes for recovered analog spectrum
25 commencing January 28, 2008;

1 “(II) not later than 60 days after
2 the end of the pleading cycle for long-
3 form applications for such auction es-
4 tablished pursuant to part 1 of title
5 47, Code of Federal Regulations,
6 grant or deny such long-form applica-
7 tions and issue the licenses for such
8 recovered analog spectrum to each
9 successful bidder whose long-form ap-
10 plication is granted; and

11 “(III) collect and deposit the pro-
12 ceeds of such auction in the Digital
13 Transition and Public Safety Fund
14 established by section 3005 of the
15 Digital Transition and Public Safety
16 Act of 2005.

17 “(vi) RECOVERED ANALOG SPEC-
18 TRUM.—For purposes of this subpara-
19 graph, the term ‘recovered analog spec-
20 trum’ means spectrum reclaimed from the
21 analog television service under paragraph
22 (14), except—

23 “(I) spectrum required by section
24 337 to be made available for public
25 safety services; and

1 “(II) spectrum auctioned prior to
2 the date of enactment of the Digital
3 Transition and Public Safety Act of
4 2005.”.

5 (b) EXTENSION OF AUCTION AUTHORITY.—Para-
6 graph (11) of section 309(j) of the Communications Act
7 of 1934 (47 U.S.C. 309(j)(11)) is amended by striking
8 “September 30, 2007.” and inserting “September 30,
9 2009.”.

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

11 In addition to any fees assessed under the Commu-
12 nications Act of 1934 (47 U.S.C. 151 et seq.), the Com-
13 mission shall assess extraordinary fees for licenses in the
14 aggregate amount of \$10,000,000, which shall be depos-
15 ited in the Treasury during fiscal year 2006 as offsetting
16 receipts.

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

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

22 (b) DEPOSIT OF AUCTION PROCEEDS.—The Com-
23 mission shall deposit the proceeds of the auction author-
24 ized by section 309(j)(15)(C)(v) of the Communications

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

3 (c) PAYMENTS AUTHORIZED.—The Secretary of
4 Commerce or the Secretary’s designee shall make pay-
5 ments from the Fund in the following amounts, for the
6 following programs, and in the following order:

7 (1) \$3,000,000,000 for a program to assist con-
8 sumers in the purchase of converter boxes that con-
9 vert a digital television signal to an analog television
10 signal, and any amounts unexpended or unobligated
11 at the conclusion of the program shall be used for
12 the program described in paragraph (3).

13 (2) \$200,000,000 for a program to convert low-
14 power television stations and television translator
15 stations from analog to digital, and any amounts un-
16 expended or unobligated at the conclusion of the
17 program shall be used for the program described in
18 paragraph (3).

19 (3) \$1,250,000,000 for a program to facilitate
20 emergency communications, of which
21 \$1,000,000,000 shall be used for an interoperability
22 fund and \$250,000,000 shall be used to implement
23 a national alert system, of which \$50,000,000 shall
24 be used for tsunami warning and coastal vulner-
25 ability programs.

1 (4) \$250,000,000 for a program to implement
2 the ENHANCE 911 Act of 2004 (47 U.S.C. 942
3 note).

4 (5) \$200,000,000 for a program to provide as-
5 sistance to coastal States and Indian tribes affected
6 by hurricanes and other coastal disasters.

7 (d) TRANSFER OF AMOUNT TO TREASURY.—On Oc-
8 tober 2, 2009, Secretary shall transfer \$5,000,000,000
9 from the Fund to the general fund of the Treasury.

10 (e) OBLIGATION TIME PERIOD.—The amounts pay-
11 able from the Fund under subsection (c) shall be obligated
12 no later than September 14, 2010.

13 (f) EXCESS PROCEEDS USED FOR DEFICIT REDUC-
14 TION.—If the proceeds of the auction authorized by sec-
15 tion 309(j)(15)(C)(v) of the Communications Act of 1934
16 (47 U.S.C. 309(j)(15)(C)(v)) exceed the sum of the pay-
17 ments under subsection (c), the transfer under subsection
18 (d), and any amount made available under section 3006,
19 the excess in the Fund shall be transferred to and depos-
20 ited in the general fund of the Treasury as miscellaneous
21 receipts.

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

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

1 equals or exceeds \$110,000,000 for fiscal year 2006,
2 2007, 2008, 2009, or 2010, then the Secretary of Com-
3 merce shall make \$15,000,000 available from the Digital
4 Transition and Public Safety Fund available to the Sec-
5 retary of Transportation for use in carrying out the essen-
6 tial air service program for that fiscal year.

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

10 (1) appropriated for that fiscal year; or

11 (2) derived from fees collected pursuant to sec-
12 tion 45301(a)(1) of title 49, United States Code,
13 that are made available for obligation and expendi-
14 ture to carry out the essential air service program
15 for that fiscal year.

16 **TITLE IV—ENERGY AND** 17 **NATURAL RESOURCES**

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

19 (a) DEFINITIONS.—In this section:

20 (1) COASTAL PLAIN.—The term “Coastal
21 Plain” means the area identified as the Coastal
22 Plain on the map prepared by the United States Ge-
23 ological Survey, entitled “Arctic National Wildlife
24 Refuge 1002 Coastal Plain Area”, dated September

1 2005, and on file with the United States Geological
2 Survey.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior, acting through the Bu-
5 reau of Land Management.

6 (b) PROGRAM.—

7 (1) IN GENERAL.—Congress—

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

11 (B) directs the Secretary to take such ac-
12 tions as are necessary to—

13 (i) establish and implement an envi-
14 ronmentally sound competitive oil and gas
15 leasing program to carry out the activities
16 authorized under subparagraph (A); and

17 (ii) conduct 2 lease sales before Octo-
18 ber 1, 2010.

19 (2) ADMINISTRATION.—The Secretary shall ad-
20 minister this section through regulations, lease
21 terms, conditions, restrictions, prohibitions, stipula-
22 tions, and other provisions that ensure the oil and
23 gas exploration, development, production, and trans-
24 portation activities on the Coastal Plain are carried
25 out in a manner that will ensure the receipt of fair

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

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

4 (1) IN GENERAL.—In order to enable the Sec-
5 retary to hold 2 lease sales before October 1, 2010,
6 this subsection shall apply with respect to the oil
7 and gas leasing program established by the Sec-
8 retary pursuant to this section.

9 (2) PURPOSES.—For purposes of the National
10 Wildlife Refuge System Administration Act of 1966
11 (16 U.S.C. 668dd et seq.) and amendments made by
12 that Act, the oil and gas leasing program and activi-
13 ties authorized by this section in the Coastal Plain
14 are deemed to be compatible with the purposes for
15 which the Arctic National Wildlife Refuge was estab-
16 lished, and no further findings or decisions are re-
17 quired to implement this determination of compat-
18 ibility.

19 (3) PRERELEASE ACTIVITIES.—The Final Legisla-
20 tive Environmental Impact Statement on the Coastal
21 Plain dated April 1987 and prepared pursuant to
22 section 1002 of the Alaska National Interest Lands
23 Conservation Act (16 U.S.C. 3142) and section
24 102(2)(C) of the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy

1 the requirements under the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et seq.) that
3 apply with respect to prelease activities, including
4 actions authorized to be taken by the Secretary to
5 develop and promulgate regulations for the establish-
6 ment of the leasing program authorized by this sec-
7 tion before the conduct of the first lease sale.

8 (4) PREFERRED ACTION.—

9 (A) NONLEASING ALTERNATIVES.—With
10 respect to any environmental impact statement
11 prepared by the Secretary under the National
12 Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.) with respect to any lease sale con-
14 ducted under the leasing program authorized by
15 this section, the Secretary is not required to
16 identify nonleasing alternative courses of action
17 or to analyze the environmental effects of those
18 courses of action.

19 (B) LEASING ALTERNATIVES.—The Sec-
20 retary shall only identify a preferred action for
21 leasing and a single leasing alternative, and
22 analyze the environmental effects and potential
23 mitigation measures for the preferred action
24 and leasing alternative.

1 (C) DEADLINE.—The identification and re-
2 lated analyses required by subparagraph (B)
3 shall be completed within 18 months after the
4 date of enactment of this Act.

5 (D) PUBLIC COMMENTS.—The Secretary
6 shall only consider public comments that are
7 filed within 30 days after publication of an en-
8 vironmental analysis.

9 (E) COMPLIANCE.—Compliance with this
10 paragraph satisfies all requirements of section
11 102(2)(C) of the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4332(2)(C)) for the
13 analysis and consideration of the environmental
14 effects of proposed leasing under this section.

15 (5) EXPEDITED JUDICIAL REVIEW.—

16 (A) VENUE; DEADLINE.—Any complaint
17 seeking judicial review of this section or any ac-
18 tion of the Secretary under this section shall be
19 filed in the United States Court of Appeals for
20 the District of Columbia—

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

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

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

4 (B) SCOPE.—Judicial review of a decision
5 of the Secretary to conduct a lease sale under
6 this section (including the environmental anal-
7 ysis of the decision) shall be—

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

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

12 (d) RECEIPTS.—Notwithstanding any other provision
13 of law, of the amount of adjusted bonus, rental, and roy-
14 alty receipts derived from oil and gas leasing and oper-
15 ations authorized under this section—

16 (1) 50 percent shall be paid to the State of
17 Alaska; and

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

20 (e) RIGHTS-OF-WAY.—For purposes of section
21 1102(4)(A) of the Alaska National Interest Lands Con-
22 servation Act (16 U.S.C. 3162(4)(A)), any rights-of-way
23 or easements across the Coastal Plain for the exploration,
24 development, production, or transportation of oil and gas

1 shall be considered to be established incident to the man-
2 agement of the Coastal Plain under this section.

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

9 **TITLE V—COMMITTEE ON ENVI-**
10 **RONMENT AND PUBLIC**
11 **WORKS**

12 **SEC. 5001. TECHNICAL CORRECTIONS TO SAFETEA-LU.**

13 (a)(1) Notwithstanding any other provision of law,
14 the amount of \$639,000,000 described in section
15 1102(b)(10) of the Safe, Accountable, Flexible, Efficient
16 Transportation Equity Act: A Legacy for Users (119 Stat.
17 1144), shall be considered to be—

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

19 and

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

21 (2) Notwithstanding any other provision of law, the
22 amount of \$2,639,000,000 described in section 1102(e)(6)
23 of the Safe, Accountable, Flexible, Efficient Transpor-
24 tation Equity Act: A Legacy for Users (119 Stat. 1144),
25 shall be considered to be—

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

2 and

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

4 (b) Section 4409 of the Safe, Accountable, Flexible,
5 Efficient Transportation Equity Act: A Legacy for Users
6 (119 Stat. 1144) is amended—

7 (1) by striking “Section” and inserting the fol-
8 lowing:

9 “(a) IN GENERAL.—Section”; and

10 (2) by adding at the end the following:

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

13 **TITLE VI—COMMITTEE ON**
14 **FINANCE**

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

16 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
17 cept as otherwise specifically provided, whenever in this
18 title an amendment is expressed in terms of an amend-
19 ment to or repeal of a section or other provision, the ref-
20 erence shall be considered to be made to that section or
21 other provision of the Social Security Act.

22 (b) REFERENCES TO THE SECRETARY.—In this title,
23 the term “Secretary” means the Secretary of Health and
24 Human Services.

1 **Subtitle A—Medicaid**
 2 **CHAPTER 1—PAYMENT FOR**
 3 **PRESCRIPTION DRUGS UNDER MEDICAID**

4 **SEC. 6001. PHARMACY REIMBURSEMENT.**

5 (a) DEFINITION OF AVERAGE MANUFACTURER
 6 PRICE.—

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

9 (A) in the paragraph heading, by striking
 10 “PRICE” and inserting “PRICE; WEIGHTED AV-
 11 ERAGE MANUFACTURER PRICE”;

12 (B) by striking “The term” and inserting
 13 the following:

14 “(A) IN GENERAL.—The term”; and

15 (C) by adding at the end the following:

16 “(B) CALCULATION REQUIREMENTS.—For
 17 purposes of subparagraph (A), the average
 18 manufacturer price shall be calculated accord-
 19 ing to the following:

20 “(i) SALES EXEMPTED FROM COM-
 21 PUTATION.—Without regard to—

22 “(I) sales exempt from inclusion
 23 in the determination of best price
 24 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-

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

3 “(V) Any other price concessions,
4 which may be based on recommenda-
5 tions of the Inspector General of the
6 Department of Health and Human
7 Services, that would result in a reduc-
8 tion of the cost to the purchaser, but
9 only if the Secretary provides notice
10 of the Secretary’s intent to include
11 such price concessions in accordance
12 with section 553 of title 5, United
13 States Code.

14 “(C) WEIGHTED AVERAGE MANUFAC-
15 Turer Price.—The term ‘weighted average
16 manufacturer price’ means, with respect to a
17 rebate period and multiple source drug, the vol-
18 ume-weighted average of the average manufac-
19 turer prices reported under subsection
20 (b)(3)(A)(i)(I) for all drug products described
21 in paragraph (7)(A)(i) that are therapeutically
22 equivalent and bioequivalent forms of the drug,
23 determined by—

1 “(i) computing the sum of the prod-
2 ucts (for each National Drug Code as-
3 signed to such drug products) of—

4 “(I) the average manufacturer
5 price; and

6 “(II) the total number of units
7 reported sold under subsection
8 (b)(3)(A)(i)(I); and

9 “(ii) dividing the sum determined
10 under clause (i) by the sum of the total
11 number of units under clause (i)(II) for all
12 National Drug Codes assigned to such
13 drug products.

14 “(D) LIMITATION ON SALES AT A NOMINAL
15 PRICE.—

16 “(i) IN GENERAL.—For purposes of
17 clauses (i)(II) and (ii)(III) of subpara-
18 graph (B), only sales by a manufacturer of
19 covered outpatient drugs that are single
20 source drugs, innovator multiple source
21 drugs, or authorized generic drugs at
22 nominal prices to the following shall be
23 considered to be sales at a nominal price or
24 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

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

6 “(E) BONA FIDE SERVICE FEES.—For
7 purposes of subparagraph (B)(i)(III), the term
8 ‘bona fide service fees’ means expenses that are
9 for an itemized service actually performed by an
10 entity on behalf of a manufacturer that would
11 have generally been paid for by the manufac-
12 turer at the same rate had these services been
13 performed by another entity.”.

14 (2) CONFORMING AMENDMENTS.—Section
15 1927(b)(3)(A)(i) (42 U.S.C. 1396r-8(b)(3)(A)(i)),
16 as amended by section 6003(a), is amended—

17 (A) in subclause (I)—

18 (i) by inserting “and the total number
19 of units sold” after “(as defined in sub-
20 section (k)(1))”; and

21 (ii) by striking “and” at the end;

22 (B) in subclause (II), by adding “and” at
23 the end; and

24 (C) by adding at the end the following:

1 “(III) information and data on
2 any sales that were made during such
3 period at a nominal price, including,
4 with respect to each such sale, the
5 purchaser, the name of the product,
6 the amount or number of units of the
7 product sold at a nominal price, and
8 the nominal price paid;”.

9 (3) EFFECTIVE DATE.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the amendments made by
12 this subsection shall take effect on January 1,
13 2006.

14 (B) EXCEPTION.—Subparagraph (D) of
15 section 1927(k)(1) of the Social Security Act
16 (42 U.S.C. 1396r–8(k)(1)) (as added by para-
17 graph (1)) shall not apply with respect to a con-
18 tract in effect on the date of enactment of this
19 Act pursuant to which pharmaceutical products
20 are or may be available at nominal prices until
21 the expiration date of such contract, or October
22 1, 2006, whichever is earlier, and shall apply to
23 sales made, and rebate periods beginning, on or
24 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.—

1 “(i) IN GENERAL.—In the case of a
2 covered outpatient drug during an initial
3 sales period (not to exceed 2 calendar
4 quarters) in which data on sales for the
5 drug is not sufficiently available from the
6 manufacturer to compute the average man-
7 ufacturer price or the weighted average
8 manufacturer price, the Secretary shall es-
9 tablish the upper payment limit for the in-
10 gredient cost of such drug to apply only
11 during such period based on the following:

12 “(I) In the case of a single
13 source drug, such upper payment
14 limit shall be the wholesale acquisition
15 cost for the drug.

16 “(II) In the case of a first non-
17 innovator multiple source drug, such
18 upper payment limit shall be the aver-
19 age manufacturer price for the single
20 source drug that is rated as thera-
21apeutically equivalent and bioequivalent
22 to such drug, minus 10 percent.

23 “(III) In the case of a subse-
24 quent noninnovator multiple source
25 drug—

1 “(aa) if the Secretary has
2 sufficient data to determine the
3 weighted average manufacturer
4 price for the drug, such upper
5 payment limit shall be the
6 weighted average manufacturer
7 price determined for the thera-
8apeutically equivalent and bio-
9 equivalent form of the drug; and

10 “(bb) if the Secretary does
11 not have sufficient data to deter-
12 mine the weighted average manu-
13 facturer price for the drug, such
14 upper payment limit shall be the
15 average manufacturer price for
16 the single source drug that is
17 rated as therapeutically equiva-
18 lent and bioequivalent to the
19 drug, minus 10 percent.

20 “(ii) DEFINITION OF WHOLESAL AC-
21 QUISTION COST.—For purposes of clause
22 (i), the term ‘wholesale acquisition cost’
23 means, with respect to a drug or biological,
24 the manufacturer’s list price for the drug
25 or biological to wholesalers or direct pur-

1 chasers in the United States, not including
2 prompt pay or other discounts, rebates, or
3 reductions in price, for the most recent
4 month for which the information is avail-
5 able, as reported in wholesale price guides
6 or other publications of drug or biological
7 pricing data.

8 “(C) EXCEPTION FOR CERTAIN INNOVATOR
9 MULTIPLE SOURCE DRUGS.—In the case of an
10 innovator multiple source drug that a pre-
11 scribing health care provider determines is nec-
12 essary for treatment of a condition and that a
13 noninnovator multiple source drug would not be
14 as effective for the individual or would have ad-
15 verse effects for the individual or both, and for
16 which the provider obtains prior authorization
17 in accordance with a program described in sub-
18 section (d)(5), the upper payment limit for the
19 innovator multiple source drug shall be 105
20 percent of the average manufacturer price for
21 such drug.

22 “(D) UPDATES; AVAILABILITY OF DATA.—
23 “(i) FREQUENCY OF DETERMINA-
24 TION.—The Secretary shall update the
25 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-

1 date the weighted average manufac-
2 turer price for a multiple source drug,
3 the manufacturer of such drug shall
4 apply a methodology based on a 12-
5 month rolling average for the manu-
6 facturer to estimate costs attributable
7 to rebates and charge backs for such
8 drug. For years after 2006, the Sec-
9 retary shall establish a uniform meth-
10 odology to estimate and apply such
11 costs.

12 “(iii) AVAILABILITY OF DATA TO
13 STATES.—Notwithstanding subsection
14 (b)(3)(D), beginning with the first quarter
15 of fiscal year 2006 for which data is avail-
16 able, and for each fiscal year quarter
17 thereafter, the Secretary shall make avail-
18 able to States the most recently reported
19 average manufacturer prices for single
20 source drugs and weighted average manu-
21 facturer prices for multiple source drugs.

22 “(E) AUTHORITY TO ENTER CON-
23 TRACTS.—The Secretary may enter into con-
24 tracts with appropriate entities to determine av-
25 erage 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 igned 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.—

1 “(A) IN GENERAL.—A State which pro-
2 vides medical assistance for covered outpatient
3 drugs shall pay a dispensing fee for each cov-
4 ered outpatient drug for which Federal finan-
5 cial participation is available in accordance with
6 this section in accordance with the following:

7 “(i) The dispensing fee for a noninno-
8 vator multiple source drug shall be greater
9 than the dispensing fee for an innovator
10 multiple source drug that is rated as thera-
11apeutically equivalent and bioequivalent to
12 such drug.

13 “(ii) In establishing such dispensing
14 fees, the State takes into consideration
15 such requirements as the Secretary shall,
16 by regulation, establish, and which shall in-
17 clude consideration of the following:

18 “(I) Any reasonable costs associ-
19 ated with a pharmacist’s time in
20 checking for information about an in-
21 dividual’s coverage or performing
22 quality assurance activities.

23 “(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-

1 cordance with subparagraph
2 (B)).

3 “(B) DETERMINATION OF DRUGS REQUIR-
4 ING SPECIALTY PHARMACY CARE MANAGEMENT
5 SERVICES.—

6 “(i) IN GENERAL.—Not later than 15
7 months after the date of enactment of the
8 Deficit Reduction Omnibus Reconciliation
9 Act of 2005, the Secretary shall establish
10 a list of covered outpatient drugs which re-
11 quire specialty pharmacy care management
12 services that includes only those drugs for
13 which the Secretary determines that access
14 by individuals eligible for medical assist-
15 ance under this title would be seriously im-
16 paired without the provision of specialty
17 pharmacy care management services.

18 “(ii) SPECIALTY PHARMACY CARE
19 MANAGEMENT SERVICES DEFINED.—For
20 purposes of this paragraph, the term ‘spe-
21 cialty pharmacy care management services’
22 means services provided in connection with
23 the dispensing or administration of a cov-
24 ered outpatient drug which the Secretary
25 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.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 1927(b)(3)(D)(i) (42 U.S.C.
3 1396r–8(b)(3)(D)(i)) is amended by inserting
4 “(including with respect to the determination of
5 weighted average manufacturer prices under
6 subsection (e)(2) and the distribution of weight-
7 ed average manufacturer prices and average
8 manufacturer prices for covered outpatient
9 drugs to States under subsection (e)(3))” after
10 “this section”.

11 (B) Section 1903(i)(10) (42 U.S.C.
12 1396b(i)(10)) is amended—

13 (i) in subparagraph (A), by striking
14 “and” at the end;

15 (ii) in subparagraph (B), by striking
16 “or” at the end and inserting “and”; and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(C) with respect to any amount expended for
20 the ingredient cost of a covered outpatient drug that
21 exceeds the upper payment limit for that drug estab-
22 lished under section 1927(e); or”.

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

1 (A) January 1, 2007; or

2 (B) the date that is 6 months after the
3 close of the first regular session of the State
4 legislature that begins after the date of enact-
5 ment of this Act.

6 (c) INTERIM UPPER PAYMENT LIMIT.—

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

12 (A) apply the Federal upper payment limit
13 established under section 447.332(b) of title 42,
14 Code of Federal Regulations to the State by
15 substituting “125 percent” for “150 percent”;
16 and

17 (B) in the case of covered outpatient drugs
18 under title XIX of such Act that are marketed
19 as of July 1, 2005, and are subject to Federal
20 upper payment limits that apply under section
21 447.332 of title 42, Code of Federal Regula-
22 tions, use average wholesale prices, direct
23 prices, and wholesale acquisition costs for such
24 drugs that do not exceed such prices and costs
25 as of such date to determine the Federal upper

1 payment limits that apply under section
 2 447.332 of title 42, Code of Federal Regula-
 3 tions to such drugs during such period.

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

11 **SEC. 6002. INCREASE IN REBATES FOR COVERED OUT-**
 12 **PATIENT DRUGS.**

13 (a) INCREASE IN BASIC REBATE FOR SINGLE
 14 SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE
 15 DRUGS.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r-
 16 8(c)(1)(B)(i)) is amended—

17 (1) in subclause (IV), by striking “and” after
 18 the semicolon;

19 (2) in subclause (V)—

20 (A) by inserting “and before January 1,
 21 2006,” after “1995,”; and

22 (B) by striking the period and inserting “;
 23 and”; and

24 (3) by adding at the end the following:

1 “(VI) after December 31, 2005,
2 is 17 percent.”.

3 (b) INCREASE IN REBATE FOR OTHER DRUGS.—Sec-
4 tion 1927(c)(3)(B) (42 U.S.C. 1396r-8(c)(3)(B)) is
5 amended—

6 (1) in clause (i), by striking “and” at the end;

7 (2) in clause (ii)—

8 (A) by inserting “and before January 1,
9 2006,” after “December 31, 1993,”; and

10 (B) by striking the period at the end and
11 inserting “; and”; and

12 (3) by adding at the end the following:

13 “(iii) after December 31, 2005, is 17
14 percent.”.

15 **SEC. 6003. IMPROVED REGULATION OF AUTHORIZED GE-**
16 **NERIC DRUGS.**

17 (a) INCLUSION WITH OTHER REPORTED AVERAGE
18 MANUFACTURER AND BEST PRICES.—Section
19 1927(b)(3)(A) (42 U.S.C. 1396r-8(b)(3)(A)) is amend-
20 ed—

21 (1) by striking clause (i) and inserting the fol-
22 lowing:

23 “(i) not later than 30 days after the
24 last day of each rebate period under the
25 agreement—

1 “(I) on the average manufacturer
2 price (as defined in subsection (k)(1))
3 for each covered outpatient drug for
4 the rebate period under the agreement
5 (including for each such drug that is
6 an authorized generic drug or is any
7 other drug sold under a new drug ap-
8 plication approved under section
9 505(c) of the Federal Food, Drug,
10 and Cosmetic Act); and

11 “(II) for each single source drug,
12 innovator multiple source drug, au-
13 thorized generic drug, and any other
14 drug sold under a new drug applica-
15 tion approved under section 505(c) of
16 the Federal Food, Drug, and Cos-
17 metic Act, on the manufacturer’s best
18 price (as defined in subsection
19 (c)(1)(C)) for such drug for the rebate
20 period under the agreement;” and

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

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

3 (1) in subsection (c)(1)(C)—

4 (A) in clause (i), in the matter preceding
5 subclause (I), by striking “or innovator multiple
6 source drug of a manufacturer” and inserting
7 “, innovator multiple source drug, or authorized
8 generic drug of a manufacturer, or any other
9 drug of a manufacturer that is sold under a
10 new drug application approved under section
11 505(c) of the Federal Food, Drug, and Cos-
12 metic Act”; and

13 (B) in clause (ii)—

14 (i) in subclause (II), by striking
15 “and” at the end;

16 (ii) in subclause (III), by striking the
17 period at the end and inserting “; and”;
18 and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(IV) in the case of a manufac-
22 turer that approves, allows, or other-
23 wise permits an authorized generic
24 drug or any other drug of the manu-
25 facturer to be sold under a new drug

1 application approved under section
2 505(c) of the Federal Food, Drug,
3 and Cosmetic Act, shall be inclusive of
4 the lowest price for such authorized
5 generic or other drug available from
6 the manufacturer during the rebate
7 period to any wholesaler, retailer, pro-
8 vider, health maintenance organiza-
9 tion, nonprofit entity, or governmental
10 entity within the United States, ex-
11 cluding those prices described in sub-
12 clauses (I) through (IV) of clause
13 (i).”; and

14 (2) in subsection (k)—

15 (A) in paragraph (1), as amended by sec-
16 tion 6001(a)(1)(B), by adding at the end the
17 following:

18 “(F) INCLUSION OF AUTHORIZED GENERIC
19 DRUGS.—In the case of a manufacturer that
20 approves, allows, or otherwise permits an au-
21 thorized generic drug or any other drug of the
22 manufacturer to be sold under a new drug ap-
23 plication approved under section 505(c) of the
24 Federal Food, Drug, and Cosmetic Act, such

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

3 (B) by adding at the end the following:

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

8 “(A) has been approved under section
9 505(c) of such Act; and

10 “(B) is marketed, sold, or distributed di-
11 rectly or indirectly to the retail class of trade
12 under a different labeling, packaging (other
13 than repackaging as the listed drug in blister
14 packs, unit doses, or similar packaging for use
15 in institutions), product code, labeler code,
16 trade name, or trade mark than the listed
17 drug.”.

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

20 **SEC. 6004. COLLECTION OF REBATES FOR CERTAIN PHYSI-**
21 **CIAN ADMINISTERED DRUGS.**

22 (a) IN GENERAL.—Section 1927(a) (42 U.S.C.
23 1396r–8(a)) is amended by adding at the end the fol-
24 lowing:

1 “(7) REQUIREMENT FOR SUBMISSION OF UTILI-
2 ZATION DATA FOR CERTAIN PHYSICIAN-ADMINIS-
3 TERED DRUGS.—In order for payment to be avail-
4 able under section 1903(a) for a covered outpatient
5 drug that is physician administered (as determined
6 by the Secretary), and that is administered on or
7 after January 1, 2006, the State shall provide for
8 the submission of such utilization data and coding
9 (including both J-codes and National Drug Code
10 numbers) for each such drug as the Secretary may
11 specify as necessary in order to secure rebates for
12 payments made under this title.”.

13 (b) LIMITATION ON PAYMENT.—Section 1903(i)(10)
14 (42 U.S.C. 1396b(i)(10)), as amended by section
15 6001(b)(2)(B), is amended—

16 (1) in subparagraph (B), by striking “and” at
17 the end;

18 (2) in subparagraph (C), by striking “; or” at
19 the end and inserting “, and”; and

20 (3) by adding at the end the following:

21 “(D) with respect to covered outpatient drugs
22 described in section 1927(a)(7), unless information
23 with respect to utilization data and coding on such
24 drugs is submitted in accordance with that section;
25 or”.

1 **CHAPTER 2—LONG-TERM CARE UNDER**
2 **MEDICAID**

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

4 (a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF
5 INELIGIBILITY.—Section 1917(c)(1)(E) (42 U.S.C.
6 1396p(c)(1)(E)) is amended by adding at the end the fol-
7 lowing:

8 “(iv) A State shall not round down, or otherwise dis-
9 regard any fractional period of ineligibility determined
10 under clause (i) or (ii) with respect to the disposal of as-
11 sets.”.

12 (b) AUTHORITY FOR STATES TO ACCUMULATE MUL-
13 TIPLE TRANSFERS INTO 1 PENALTY PERIOD.—Section
14 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by adding
15 at the end the following:

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

23 “(i) treating the total, cumulative uncompen-
24 sated value of all assets transferred by the individual
25 (or individual’s spouse) during all months on or

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

4 “(ii) beginning such period on the earliest date
5 which would apply under subparagraph (D) to any
6 of such transfers.”.

7 (c) INCLUSION OF TRANSFER OF CERTAIN NOTES
8 AND LOANS ASSETS.—Section 1917(c)(1) (42 U.S.C.
9 1396p(c)(1)), as amended by subsection (b), is amended
10 by adding at the end the following:

11 “(G) For purposes of this paragraph with respect to
12 a transfer of assets, the term ‘assets’ includes funds used
13 to purchase a promissory note, loan, or mortgage unless
14 such note, loan, or mortgage—

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

19 “(ii) provides for payments to be made in equal
20 amounts during the term of the loan, with no defer-
21 ral and no balloon payments made; and

22 “(iii) prohibits the cancellation of the balance
23 upon the death of the lender.

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

1 (iii), the value of such note, loan, or mortgage shall be
 2 the outstanding balance due as of the date of the individ-
 3 ual's application for medical assistance for services de-
 4 scribed in subparagraph (C).”.

5 (d) TREATMENT OF ANNUITIES.—

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

10 “(H) For purposes of this paragraph with respect to
 11 a transfer of assets, the term ‘assets’ includes an annuity
 12 purchased by or on behalf of an annuitant who has applied
 13 for medical assistance with respect to nursing facility serv-
 14 ices or other long-term care services under this title un-
 15 less—

16 “(i) the annuity is—

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

20 “(II) purchased with proceeds from—

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

1 “(bb) a simplified employee pension
2 (within the meaning of section 408(k) of
3 such Code); or

4 “(cc) a Roth IRA described in section
5 408A of such Code; or

6 “(ii) the annuity—

7 “(I) is irrevocable and nonassignable;

8 “(II) is actuarially sound (as determined in
9 accordance with actuarial publications of the
10 Office of the Chief Actuary of the Social Secu-
11 rity Administration); and

12 “(III) provides for payments in equal
13 amounts during the term of the annuity, with
14 no deferral and no balloon payments made.”.

15 (2) REQUIREMENT FOR STATE TO BE NAMED
16 AS A REMAINDER BENEFICIARY.—Section 1917(c)(1)
17 (42 U.S.C. 1396p(c)(1)), as amended by paragraph
18 (1), is amended by adding at the end the following:

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

1 spouse and such spouse does not dispose of any such re-
2 mainder for less than fair market value.”.

3 (3) INCLUSION OF CERTAIN ANNUITIES IN AN
4 ESTATE.—Section 1917(b)(4) (42 U.S.C.
5 1396p(b)(4)) is amended—

6 (A) in subparagraph (A), by striking
7 “and” at the end;

8 (B) in subparagraph (B), by striking the
9 period at the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(C) shall include an annuity unless the annu-
12 ity was purchased from a financial institution or
13 other business that sells annuities in the State as
14 part of its regular business.”.

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

19 “(J) For purposes of this paragraph with respect to
20 a transfer of assets, the term ‘assets’ includes the pur-
21 chase of a life estate interest in another individual’s home
22 unless the purchaser resides in the home for a period of
23 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-

1 prive the individual of food, clothing, shelter, or
2 other necessities of life.”.

3 (g) EFFECTIVE DATES.—

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

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

14 (A) to medical assistance provided for serv-
15 ices furnished before the date of enactment;

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

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

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

1 requirements imposed by the amendments made by
2 a provision of this section, the State plan shall not
3 be regarded as failing to comply with the require-
4 ments of such title solely on the basis of its failure
5 to meet these additional requirements before the
6 first day of the first calendar quarter beginning
7 after the close of the first regular session of the
8 State legislature that begins after the date of the en-
9 actment of this Act. For purposes of the previous
10 sentence, in the case of a State that has a 2-year
11 legislative session, each year of the session is consid-
12 ered to be a separate regular session of the State
13 legislature.

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

15 (a) EXPANSION OF STATE LONG-TERM CARE PART-
16 NERSHIPS.—

17 (1) IN GENERAL.—Section 1917(b)(1)(C)(ii)
18 (42 U.S.C. 1396p(b)(1)(C)(ii)) is amended to read
19 as follows:

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

22 “(I) a Qualified State Long-Term Care In-
23 surance Partnership (as defined in paragraph
24 (5)); or

1 “(II) under a State plan of a State
2 which—

3 “(aa) had a State plan amendment
4 approved as of May 14, 1993, which pro-
5 vided for the disregard of any assets or re-
6 sources to the extent that payments are
7 made under a long-term care insurance
8 policy or because an individual has received
9 (or is entitled to receive) benefits under a
10 long-term care insurance policy; and

11 “(bb) has a State plan amendment
12 which satisfies the requirements of sub-
13 paragraphs (B) through (G) of paragraph
14 (5) in the case of any long-term care insur-
15 ance policy sold under such plan amend-
16 ment on or after the date that is 2 years
17 after the date of enactment of such para-
18 graph.

19 For purposes of this clause and paragraphs (5) and
20 (6), the term ‘long-term care insurance policy’ in-
21 cludes a certificate issued under a group insurance
22 contract.”.

23 (2) SATISFACTION OF MINIMUM FEDERAL
24 STANDARDS, TAX QUALIFICATIONS, INFLATION PRO-
25 TECTION, 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—

1 “(i) be a qualified long-term care in-
2 surance contract within the meaning of
3 section 7702B(b) of the Internal Revenue
4 Code of 1986; and

5 “(ii) meet the requirements described
6 in paragraph (6).

7 “(D) A requirement that any such policy
8 sold under the State plan amendment shall pro-
9 vide for—

10 “(i) compound annual inflation pro-
11 tection of at least 5 percent; and

12 “(ii) asset protection that does not ex-
13 ceed \$250,000.

14 The dollar amount specified in the preceding
15 sentence shall be increased, beginning with
16 2007, from year to year based on the percent-
17 age increase in the medical care expenditure
18 category of the Consumer Price Index for All
19 Urban Consumers (United States city average),
20 published by the Bureau of Labor Statistics,
21 rounded to the nearest \$100.

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

1 otherwise valid long-term care insurance claim
2 under such a policy only upon a showing of mis-
3 representation that is material to the accept-
4 ance of coverage, pertains to the claim made,
5 and could not have been known by the insurer
6 at the time the policy was sold.

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

12 “(G) A requirement that the issuer of any
13 such policy report—

14 “(i) to the Secretary, such informa-
15 tion or data as the Secretary may require;
16 and

17 “(ii) to the State, the information or
18 data reported to the Secretary (if any), the
19 information or data required under the
20 minimum reporting requirements developed
21 under section 6012(b)(2)(B) of the Deficit
22 Reduction Omnibus Reconciliation Act of
23 2005, and such additional information or
24 data as the State may require.

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

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

11 “(i) MODEL REGULATION.—The following
12 requirements of the model regulation:

13 “(I) Section 6A (relating to guaran-
14 teed renewal or noncancellability), other
15 than paragraph (5) thereof, and the re-
16 quirements of section 6B of the model Act
17 relating to such section 6A.

18 “(II) Section 6B (relating to prohibi-
19 tions on limitations and exclusions) other
20 than paragraph (7) thereof.

21 “(III) Section 6C (relating to exten-
22 sion of benefits).

23 “(IV) Section 6D (relating to continu-
24 ation 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.

1 “(XV) Section 25 (relating to prohibi-
2 tion against preexisting conditions and
3 probationary periods in replacement poli-
4 cies or certificates).

5 “(XVI) The provisions of section 26
6 relating to contingent nonforfeiture bene-
7 fits, if the policyholder declines the offer of
8 a nonforfeiture provision described in para-
9 graph (4).

10 “(XVII) Section 29 (relating to stand-
11 ard format outline of coverage).

12 “(XVIII) Section 30 (relating to re-
13 quirement to deliver shopper’s guide).

14 “(ii) MODEL ACT.—The following require-
15 ments of the model Act:

16 “(I) Section 6C (relating to pre-
17 existing conditions).

18 “(II) Section 6D (relating to prior
19 hospitalization).

20 “(III) The provisions of section 8 re-
21 lating to contingent nonforfeiture benefits.

22 “(IV) Section 6F (relating to right to
23 return).

24 “(V) Section 6G (relating to outline of
25 coverage).

1 “(VI) Section 6H (relating to require-
2 ments for certificates under group plans).

3 “(VII) Section 6J (relating to policy
4 summary).

5 “(VIII) Section 6K (relating to
6 monthly reports on accelerated death bene-
7 fits).

8 “(B) DEFINITIONS.—For purposes of this para-
9 graph—

10 “(i) MODEL PROVISIONS.—The terms
11 ‘model regulation’ and ‘model Act’ mean the
12 long-term care insurance model regulation, and
13 the long-term care insurance model Act, respec-
14 tively, promulgated by the National Association
15 of Insurance Commissioners (as adopted as of
16 October 2000).

17 “(ii) COORDINATION.—Any provision of
18 the model regulation or model Act listed under
19 clause (i) or (ii) of subparagraph (A) shall be
20 treated as including any other provision of such
21 regulation or Act necessary to implement the
22 provision.

23 “(iii) DETERMINATION.—For purposes of
24 this paragraph, the determination of whether
25 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

1 partnership under section 1917(b)(1)(C)(ii) of
2 the Social Security Act (42 U.S.C.
3 1396p(b)(1)(C)(ii)) (as amended by subsection
4 (a)) are portable to other States with such a
5 partnership.

6 (B) MINIMUM REPORTING REQUIRE-
7 MENTS.—Standards for minimum reporting re-
8 quirements for issuers of long-term care insur-
9 ance policies under such State long-term care
10 insurance partnerships that shall specify the
11 data and information that each such issuer
12 shall report to the State with which it has such
13 a partnership. The requirements developed in
14 accordance with this subparagraph shall specify
15 the type and format of the data and informa-
16 tion to be reported and the frequency with
17 which such reports are to be made.

18 (C) SUITABILITY.—Suitability standards
19 for determining whether a long-term care insur-
20 ance policy is appropriate for the needs of an
21 applicant, based on guidance of the National
22 Association of Insurance Commissioners regard-
23 ing suitability.

24 (3) RECOMMENDATIONS.—The recommenda-
25 tions described in this paragraph are the following:

1 (A) INCONTESTABILITY.—Recommendations
2 regarding whether the requirements relating
3 to incontestability for long-term care insurance
4 policies sold under a State long-term care
5 insurance partnership program under section
6 1917(b)(1)(C)(ii) of the Social Security Act
7 should be modified based on guidance of the
8 National Association of Insurance Commissioners
9 regarding incontestability.

10 (B) NONFORFEITURE.—Recommendations
11 regarding whether requirements relating to non-
12 forfeiture for issuers of long-term care insurance
13 policies under a State long-term care insurance
14 partnership program under section
15 1917(b)(1)(C)(ii) of such Act should be modified
16 to reflect changes in an insured's financial
17 circumstances.

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

1 (D) RATING REQUIREMENTS.—Rec-
2 ommendations regarding whether uniform
3 standards for the establishment of, and annual
4 increases in, premiums for long-term care in-
5 surance policies sold under such a State part-
6 nership program should be established and, if
7 so, what such standards should be.

8 (E) DISPUTE RESOLUTION.—Rec-
9 ommendations regarding whether uniform
10 standards are needed to ensure fair adjudica-
11 tion of coverage disputes under long-term care
12 insurance policies sold under such a State part-
13 nership program and the delivery of the benefits
14 promised under such policies.

15 (4) STATE REPORTING REQUIREMENTS.—Noth-
16 ing in paragraph (2)(B) shall be construed as pro-
17 hibiting a State from requiring an issuer of a long-
18 term care insurance policy sold in the State (regard-
19 less of whether the policy is issued under a State
20 long-term care insurance partnership under section
21 1917(b)(1)(C)(ii) of the Social Security Act) to re-
22 quire the issuer to report information or data to the
23 State that is in addition to the information or data
24 required under the minimum reporting requirements
25 developed under that paragraph.

1 (c) ANNUAL REPORTS TO CONGRESS.—The Sec-
 2 retary of Health and Human Services shall annually re-
 3 port to Congress on the long-term care insurance partner-
 4 ships established in accordance with section
 5 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C.
 6 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)).
 7 Such reports shall include analyses of the extent to which
 8 such partnerships expand or limit access of individuals to
 9 long-term care and the impact of such partnerships on
 10 Federal and State expenditures under the Medicare and
 11 Medicaid programs.

12 **CHAPTER 3—ELIMINATING FRAUD,**
 13 **WASTE, AND ABUSE IN MEDICAID**

14 **SEC. 6021. ENHANCING THIRD PARTY RECOVERY.**

15 (a) CLARIFICATION OF RIGHT OF RECOVERY
 16 AGAINST ANY THIRD PARTY LEGALLY RESPONSIBLE FOR
 17 PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR
 18 SERVICE.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25))
 19 is amended—

20 (1) in subparagraph (A), in the matter pre-
 21 ceding clause (i)—

22 (A) by inserting “, including self-insured
 23 plans” after “health insurers”; and

24 (B) by striking “and health maintenance
 25 organizations” and inserting “health mainte-

1 nance organizations, pharmacy benefit man-
2 agers, or other parties that are, by statute, con-
3 tract, or agreement, legally responsible for pay-
4 ment of a claim for a health care item or serv-
5 ice”; and

6 (2) in subparagraph (G)—

7 (A) by inserting “a self-insured plan,”
8 after “1974,”; and

9 (B) by striking “and a health maintenance
10 organization” and inserting “a health mainte-
11 nance organization, a pharmacy benefit man-
12 ager, or other party that is, by statute, con-
13 tract, or agreement, legally responsible for pay-
14 ment of a claim for a health care item or serv-
15 ice”.

16 (b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE
17 THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS
18 DATA.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is
19 amended—

20 (1) in subparagraph (G), by striking “and” at
21 the end;

22 (2) in subparagraph (H), by adding “and” after
23 the semicolon at the end; and

24 (3) by inserting after subparagraph (H), the
25 following:

1 “(I) that the State shall provide assur-
2 ances satisfactory to the Secretary that the
3 State has in effect laws requiring health insur-
4 ers, including self-insured plans, group health
5 plans (as defined in section 607(1) of the Em-
6 ployee Retirement Income Security Act of
7 1974), service benefit plans, health maintenance
8 organizations, pharmacy benefit managers, or
9 other parties that are, by statute, contract, or
10 agreement, legally responsible for payment of a
11 claim for a health care item or service, as a
12 condition of doing business in the State, to—

13 “(i) provide eligibility and claims pay-
14 ment data with respect to an individual
15 who is eligible for, or is provided, medical
16 assistance under the State plan, upon the
17 request of the State;

18 “(ii) accept the subrogation of the
19 State to any right of an individual or other
20 entity to payment from the party for an
21 item or service for which payment has been
22 made under the State plan;

23 “(iii) respond to any inquiry by the
24 State regarding a claim for payment for
25 any health care item or service submitted

1 not later than 3 years after the date of the
2 provision of such health care item or serv-
3 ice; and

4 “(iv) agree not to deny a claim sub-
5 mitted by the State solely on the basis of
6 the date of submission of the claim;”.

7 (c) EFFECTIVE DATE.—Except as provided in section
8 6026(e), the amendments made by this section take effect
9 on January 1, 2006.

10 **SEC. 6022. LIMITATION ON USE OF CONTINGENCY FEE AR-**
11 **RANGEMENTS.**

12 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.
13 1396b(i)), as amended by section 104(b) of the QI, TMA,
14 and Abstinence Programs Extension and Hurricane
15 Katrina Unemployment Relief Act of 2005 (Public Law
16 109–91), is amended—

17 (1) in paragraph (19), by adding “or” at the
18 end;

19 (2) by striking the period at the end of para-
20 graph (21) and inserting “; or”; and

21 (3) by inserting after paragraph (21), the fol-
22 lowing:

23 “(22) with respect to any amount expended in
24 connection with a contract or agreement (other than
25 a risk contract under section 1903(m)) between the

1 State agency under section 1902(a)(5) (or any State
2 or local agency designated by such agency to admin-
3 ister any portion of the State plan under this title)
4 and a consultant or other contractor if the terms of
5 compensation for the consultant or other contractor
6 do not meet the standards established by the Inspec-
7 tor General of the Department of Health and
8 Human Services under section 6022(b) of the Def-
9 icit Reduction Omnibus Reconciliation Act of
10 2005.”.

11 (b) CONTINGENCY FEE ARRANGEMENT STAND-
12 ARDS.—Not later than 6 months after the date of enact-
13 ment of this Act, the Inspector General of the Department
14 of Health and Human Services shall issue standards for
15 the terms of compensation of consultants and other indi-
16 viduals or entities contracting with State agencies (or their
17 designees) administering State Medicaid plans under title
18 XIX of the Social Security Act that ensure prudent pur-
19 chasing and program integrity with respect to Federal
20 funds. The Inspector General shall annually review and,
21 as necessary, revise such standards to promptly address
22 new compensation arrangements that may present a risk
23 to program integrity under such title.

1 (c) EFFECTIVE DATE.—Except as provided in section
2 6026(e), the amendments made by subsection (a) take ef-
3 fect on January 1, 2007.

4 **SEC. 6023. ENCOURAGING THE ENACTMENT OF STATE**
5 **FALSE CLAIMS ACTS.**

6 (a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et
7 seq.) is amended by inserting after section 1908A the fol-
8 lowing:

9 “STATE FALSE CLAIMS ACT REQUIREMENTS FOR
10 INCREASED STATE SHARE OF RECOVERIES

11 “SEC. 1909. (a) IN GENERAL.—Notwithstanding sec-
12 tion 1905(b), if a State has in effect a law relating to
13 false or fraudulent claims that meets the requirements of
14 subsection (b), the Federal medical assistance percentage
15 with respect to any amounts recovered under a State ac-
16 tion brought under such law, shall be decreased by 10 per-
17 centage points.

18 “(b) REQUIREMENTS.—For purposes of subsection
19 (a), the requirements of this subsection are that the In-
20 spector General of the Department of Health and Human
21 Services, in consultation with the Attorney General, deter-
22 mines that the State has in effect a law that meets the
23 following requirements:

24 “(1) The law establishes liability to the State
25 for false or fraudulent claims described in section

1 3729 of title 31, United States Code, with respect
2 to any expenditure described in section 1903(a).

3 “(2) The law contains provisions that are at
4 least as effective in rewarding and facilitating qui
5 tam actions for false or fraudulent claims as those
6 described in sections 3730 through 3732 of title 31,
7 United States Code.

8 “(3) The law contains a requirement for filing
9 an action under seal for 60 days with review by the
10 State Attorney General.

11 “(4) The law contains a civil penalty that is not
12 less than the amount of the civil penalty authorized
13 under section 3729 of title 31, United States Code.

14 “(5) The law contains provisions that are de-
15 signed to prevent a windfall recovery for a qui tam
16 relator in the event that the relator files a Federal
17 and State action for the same false or fraudulent
18 claim.

19 “(c) DEEMED COMPLIANCE.—A State that, as of
20 January 1, 2007, has a law in effect that meets the re-
21 quirements of subsection (b) shall be deemed to be in com-
22 pliance with such requirements for so long as the law con-
23 tinues to meet such requirements.

24 “(d) NO PRECLUSION OF BROADER LAWS.—Nothing
25 in this section shall be construed as prohibiting a State

1 that has in effect a law that establishes liability to the
2 State for false or fraudulent claims described in section
3 3729 of title 31, United States Code, with respect to pro-
4 grams in addition to the State program under this title,
5 or with respect to expenditures in addition to expenditures
6 described in section 1903(a), from being considered to be
7 in compliance with the requirements of subsection (a) so
8 long as the law meets such requirements.”.

9 (b) EFFECTIVE DATE.—Except as provided in sec-
10 tion 6026(e), the amendments made by this section take
11 effect on January 1, 2007.

12 **SEC. 6024. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS**
13 **RECOVERY.**

14 (a) IN GENERAL.—Section 1902(a) (42 U.S.C.
15 1396a(a)) is amended—

16 (1) in paragraph (66), by striking “and” at the
17 end;

18 (2) in paragraph (67) by striking the period at
19 the end and inserting “; and”; and

20 (3) by inserting after paragraph (67) the fol-
21 lowing:

22 “(68) provide that any entity that receives or
23 makes annual payments under the State plan of at
24 least \$1,000,000, as a condition of receiving such
25 payments, shall—

1 “(A) establish written policies, procedures,
2 and protocols for training of all employees of
3 the entity (including management), and of any
4 contractor or agent of the entity, that includes
5 a detailed discussion of the False Claims Act
6 established under sections 3729 through 3733
7 of title 31, United States Code, administrative
8 remedies for false claims and statements estab-
9 lished under chapter 38 of title 31, United
10 States Code, any State laws pertaining to civil
11 or criminal penalties for false claims and state-
12 ments, and whistleblower protections under
13 such laws, with respect to the role of such laws
14 in preventing and detecting fraud, waste, and
15 abuse in Federal health care programs (as de-
16 fined in section 1128B(f));

17 “(B) include as part of such written poli-
18 cies, procedures, and protocols, detailed provi-
19 sions and training regarding the entity’s poli-
20 cies and procedures for detecting and pre-
21 venting fraud, waste, and abuse;

22 “(C) include in any employee handbook for
23 the entity, a specific discussion of the laws de-
24 scribed in subparagraph (A), the rights of em-
25 ployees to be protected as whistleblowers, and

1 the entity’s policies and procedures for detect-
2 ing and preventing fraud, waste, and abuse;
3 and

4 “(D) require mandatory training for all
5 employees of the entity and of any contractor or
6 agent of the entity, at the time of hiring, with
7 respect to the laws described in subparagraph
8 (A) (including the whistleblower protections
9 under such laws) and the entity’s policies and
10 procedures for detecting fraud, waste, and
11 abuse.”.

12 (b) EFFECTIVE DATE.—Except as provided in sec-
13 tion 6026(e), the amendments made by subsection (a) take
14 effect on January 1, 2007.

15 **SEC. 6025. PROHIBITION ON RESTOCKING AND DOUBLE**
16 **BILLING OF PRESCRIPTION DRUGS.**

17 (a) IN GENERAL.—Section 1903(i)(10) (42 U.S.C.
18 1396b(i)), as amended by section 6004(b), is amended—

19 (1) in subparagraph (C), by striking “and” at
20 the end;

21 (2) in subparagraph (D), by striking “; or” at
22 the end and inserting “, and”; and

23 (3) by adding at the end the following:

24 “(E) with respect to any amount expended for
25 reimbursement to a pharmacy under this title for

1 the ingredient cost of a covered outpatient drug for
2 which the pharmacy has already received payment
3 under this title (other than with respect to a reason-
4 able restocking fee for such drug); or”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) take effect on the first day of the first fiscal
7 year quarter that begins after the date of enactment of
8 this Act.

9 **SEC. 6026. MEDICAID INTEGRITY PROGRAM.**

10 (a) ESTABLISHMENT OF MEDICAID INTEGRITY PRO-
11 GRAM; MEDICAID CFO; MEDICAID PROGRAM INTEGRITY
12 OVERSIGHT BOARD.—Title XIX (42 U.S.C. 1396 et seq.)
13 is amended—

14 (1) by redesignating section 1936 as section
15 1938; and

16 (2) by inserting after section 1935 the fol-
17 lowing:

18 “MEDICAID INTEGRITY PROGRAM

19 “SEC. 1936. (a) IN GENERAL.—There is hereby es-
20 tablished the Medicaid Integrity Program (in this section
21 referred to as the ‘Program’) under which the Secretary
22 shall promote the integrity of the program under this title
23 by entering into contracts in accordance with this section
24 with eligible entities to carry out the activities described
25 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-

1 uals with respect to payment integrity and benefit
2 quality assurance issues.

3 “(c) ELIGIBLE ENTITY AND CONTRACTING REQUIRE-
4 MENTS.—

5 “(1) IN GENERAL.—An entity is eligible to
6 enter into a contract under the Program to carry
7 out any of the activities described in subsection (b)
8 if the entity satisfies the requirements of paragraphs
9 (2) and (3).

10 “(2) ELIGIBILITY REQUIREMENTS.—The re-
11 quirements of this paragraph are the following:

12 “(A) The entity has demonstrated capa-
13 bility to carry out the activities described in
14 subsection (b).

15 “(B) In carrying out such activities, the
16 entity agrees to cooperate with the Inspector
17 General of the Department of Health and
18 Human Services, the Attorney General, and
19 other law enforcement agencies, as appropriate,
20 in the investigation and deterrence of fraud and
21 abuse in relation to this title and in other cases
22 arising out of such activities.

23 “(C) The entity complies with such conflict
24 of interest standards as are generally applicable
25 to Federal acquisition and procurement.

1 “(D) The entity meets such other require-
2 ments as the Secretary may impose.

3 “(3) CONTRACTING REQUIREMENTS.—The enti-
4 ty has contracted with the Secretary in accordance
5 with such procedures as the Secretary shall by regu-
6 lation establish, except that such procedures shall in-
7 clude the following:

8 “(A) Procedures for identifying, evalu-
9 ating, and resolving organizational conflicts of
10 interest that are generally applicable to Federal
11 acquisition and procurement.

12 “(B) Competitive procedures to be used—

13 “(i) when entering into new contracts
14 under this section;

15 “(ii) when entering into contracts that
16 may result in the elimination of respon-
17 sibilities under section 202(b) of the
18 Health Insurance Portability and Account-
19 ability Act of 1996; and

20 “(iii) at any other time considered ap-
21 propriate by the Secretary.

22 “(C) Procedures under which a contract
23 under this section may be renewed without re-
24 gard to any provision of law requiring competi-
25 tion 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 investigation, 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—

1 (A) the use of funds appropriated pursuant
2 to paragraph (1); and

3 (B) the effectiveness of the use of such
4 funds.

5 (d) INCREASE IN CMS STAFFING DEVOTED TO EN-
6 SURING MEDICAID PROGRAM INTEGRITY.—The Secretary
7 shall significantly increase the number of full-time equiva-
8 lent employees whose duties consist solely of ensuring the
9 integrity of the Medicaid program established under title
10 XIX of the Social Security Act by providing effective sup-
11 port and assistance to States to combat provider fraud
12 and abuse.

13 (e) DELAYED EFFECTIVE DATE FOR CHAPTER.—in
14 the case of a State plan under title XIX of the Social Se-
15 curity Act which the Secretary determines requires State
16 legislation in order for the plan to meet the additional re-
17 quirements imposed by the amendments made by a provi-
18 sion of this chapter, the State plan shall not be regarded
19 as failing to comply with the requirements of such Act
20 solely on the basis of its failure to meet these additional
21 requirements before the first day of the first calendar
22 quarter beginning after the close of the first regular ses-
23 sion of the State legislature that begins after the date of
24 enactment of this Act. For purposes of the previous sen-
25 tence, 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.

1 “(IV) Monitoring and followup activities,
2 including activities and contacts that are nec-
3 essary to ensure the care plan is effectively im-
4 plemented and adequately addressing the needs
5 of the eligible individual, and which may be
6 with the individual, family members, providers,
7 or other entities and conducted as frequently as
8 necessary to help determine such matters as—

9 “(aa) whether services are being fur-
10 nished in accordance with an individual’s
11 care plan;

12 “(bb) whether the services in the care
13 plan are adequate; and

14 “(cc) whether there are changes in the
15 needs or status of the eligible individual,
16 and if so, making necessary adjustments in
17 the care plan and service arrangements
18 with providers.

19 “(iii) Such term does not include the direct de-
20 livery of an underlying medical, educational, social,
21 or other service to which an eligible individual has
22 been referred, including, with respect to the direct
23 delivery of foster care services, services such as (but
24 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-

1 rectly related to the management of the eligible indi-
2 vidual's care; and

3 “(B) are not considered an allowable case man-
4 agement activity if such contacts relate directly to
5 the identification and management of the noneligible
6 or nontargeted individual's needs and care.

7 “(4)(A) In accordance with section 1902(a)(25), Fed-
8 eral financial participation only is available under this title
9 for case management services or targeted case manage-
10 ment services if there are no other third parties liable to
11 pay for such services, including as reimbursement under
12 a medical, social, educational, or other program.

13 “(B) A State shall allocate the costs of any part of
14 such services which are reimbursable under another feder-
15 ally funded program in accordance with OMB Circular A-
16 87 (or any related or successor guidance or regulations
17 regarding allocation of costs among federally funded pro-
18 grams) under an approved cost allocation program.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on January 1, 2006.

21 **SEC. 6032. TEMPORARY FEDERAL MATCHING PAYMENTS**
22 **FOR FEDERAL ASSISTANCE.**

23 (a) 100 PERCENT FEDERAL MATCHING PAYMENTS
24 FOR MEDICAL ASSISTANCE PROVIDED TO SPECIFIED IN-
25 DIVIDUALS.—

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.

- 1 (R) St. Bernard.
- 2 (S) St. Charles.
- 3 (T) St. Helena.
- 4 (U) St. James.
- 5 (V) St. John.
- 6 (W) St. Mary.
- 7 (X) St. Martin.
- 8 (Y) St. Tammany.
- 9 (Z) Tangipahoa.
- 10 (AA) Terrebonne.
- 11 (BB) Vermilion.
- 12 (CC) Washington.
- 13 (DD) West Baton Rouge.
- 14 (EE) West Feliciana.

15 (3) MISSISSIPPI COUNTIES DESCRIBED.—For
16 purposes of paragraph (1), the Mississippi counties
17 described in this paragraph are the following:

- 18 (A) Adams.
- 19 (B) Amite.
- 20 (C) Attala.
- 21 (D) Clairborne.
- 22 (E) Choctaw.
- 23 (F) Clarke.
- 24 (G) Copiah.
- 25 (H) Covington.

- 1 (I) Forrest.
- 2 (J) Franklin.
- 3 (K) George.
- 4 (L) Greene.
- 5 (M) Hancock.
- 6 (N) Harrison.
- 7 (O) Hinds.
- 8 (P) Jackson.
- 9 (Q) Jasper.
- 10 (R) Jefferson.
- 11 (S) Jefferson Davis.
- 12 (T) Jones.
- 13 (U) Kemper.
- 14 (V) Lamar.
- 15 (W) Lauderdale.
- 16 (X) Lawrence.
- 17 (Y) Leake.
- 18 (Z) Lincoln.
- 19 (AA) Lowndes.
- 20 (BB) Madison.
- 21 (CC) Marion.
- 22 (DD) Neshoba.
- 23 (EE) Newton.
- 24 (FF) Noxubee.
- 25 (GG) Oktibbeha.

- 1 (HH) Pearl River.
- 2 (II) Perry.
- 3 (JJ) Pike.
- 4 (KK) Rankin.
- 5 (LL) Scott.
- 6 (MM) Simpson.
- 7 (NN) Smith.
- 8 (OO) Stone.
- 9 (PP) Walthall.
- 10 (QQ) Warren.
- 11 (RR) Wayne.
- 12 (SS) Wilkinson.
- 13 (TT) Winston.
- 14 (UU) Yazoo.

15 (4) ALABAMA COUNTIES DESCRIBED.—For pur-
16 poses of paragraph (1) the Alabama counties de-
17 scribed in this paragraph are the following:

- 18 (A) Baldwin.
- 19 (B) Choctaw.
- 20 (C) Clarke.
- 21 (D) Greene.
- 22 (E) Hale.
- 23 (F) Marengo.
- 24 (G) Mobile.
- 25 (H) Pickens.

1 (I) Sumter.

2 (J) Tuscaloosa.

3 (K) Washington.

4 (c) FMAP ADJUSTMENT.—Notwithstanding the first
5 sentence of section 1905(b) of the Social Security Act (42
6 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI
7 of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa
8 et seq.), the Federal medical assistance percentage deter-
9 mined for Alaska for fiscal year 2006 or fiscal year 2007
10 is less than the Federal medical assistance percentage de-
11 termined for Alaska for fiscal year 2005, the Federal med-
12 ical assistance percentage determined for Alaska for fiscal
13 year 2005 shall be substituted for the Federal medical as-
14 sistance percentage otherwise determined for Alaska for
15 fiscal year 2006 or fiscal year 2007, as the case may be.

16 **SEC. 6033. MANAGED CARE ORGANIZATION PROVIDER TAX**
17 **REFORM.**

18 (a) IN GENERAL.—Section 1903(w)(7)(A)(viii) (42
19 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as fol-
20 lows:

21 “(viii) Services of managed care organiza-
22 tions (including health maintenance organiza-
23 tions, preferred provider organizations, and
24 such other similar organizations as the Sec-
25 retary may specify by regulation).”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendment made by subsection (a)
4 shall take effect on January 1, 2006.

5 (2) NONAPPLICATION.—The amendment made
6 by subsection (a) shall not apply in the case of a
7 State that, as of December 31, 2005, has in effect
8 a tax imposed on the class of health care items and
9 services described in section 1903(w)(7)(A)(viii) of
10 the Social Security Act (42 U.S.C.
11 1396b(w)(7)(A)(viii)) (as in effect before the date of
12 enactment of this Act).

13 **SEC. 6034. INCLUSION OF PODIATRISTS AS PHYSICIANS.**

14 (a) IN GENERAL.—Section 1905(a)(5)(A) (42 U.S.C.
15 1396d(a)(5)(A)) is amended by striking “section
16 1861(r)(1)” and inserting “paragraphs (1) and (3) of sec-
17 tion 1861(r)”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to services furnished on or after
20 January 1, 2006.

21 **SEC. 6035. DSH ALLOTMENT FOR THE DISTRICT OF COLUM-**

22 **BIA.**

23 (a) IN GENERAL.—The table in section 1923(f)(2)
24 (42 U.S.C. 1396r-4(f)(2)) is amended under each of the
25 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

1 (3) requires such medical assistance to stabilize
2 an emergency medical condition.

3 (b) ELIGIBLE STATE DEFINED.—

4 (1) APPLICATION.—Upon approval of an appli-
5 cation submitted by a State described in paragraph
6 (2), the State shall be an eligible State for purposes
7 of conducting a demonstration project under this
8 section.

9 (2) STATE DESCRIBED.—A State described in
10 this paragraph is each of the following:

11 (A) Arizona.

12 (B) Arkansas.

13 (C) Louisiana.

14 (D) Maine.

15 (E) North Dakota.

16 (F) Wyoming.

17 (G) Four other States selected by the Sec-
18 retary to provide geographic diversity on the
19 basis of the application to conduct a demonstra-
20 tion project under this section submitted by
21 such States.

22 (c) LENGTH OF DEMONSTRATION PROJECT.—The
23 demonstration project established under this section shall
24 be conducted for a period of 3 consecutive years.

25 (d) LIMITATIONS ON FEDERAL FUNDING.—

1 (1) APPROPRIATION.—

2 (A) IN GENERAL.—Out of any funds in the
3 Treasury not otherwise appropriated, there is
4 appropriated to carry out this section,
5 \$30,000,000 for fiscal year 2006.

6 (B) BUDGET AUTHORITY.—Subparagraph
7 (A) constitutes budget authority in advance of
8 appropriations Act and represents the obliga-
9 tion of the Federal Government to provide for
10 the payment of the amounts appropriated under
11 that subparagraph.

12 (2) 3-YEAR AVAILABILITY.—Funds appro-
13 priated under paragraph (1) shall remain available
14 for obligation through December 31, 2008.

15 (3) LIMITATION ON PAYMENTS.—In no case
16 may—

17 (A) the aggregate amount of payments
18 made by the Secretary to eligible States under
19 this section exceed \$30,000,000; or

20 (B) payments be provided by the Secretary
21 under this section after December 31, 2008.

22 (4) FUNDS ALLOCATED TO STATES.—The Sec-
23 retary shall allocate funds to eligible States based on
24 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.

1 (C) An assessment of the impact of the
2 demonstration project on the costs related to
3 the provision of inpatient psychiatric care and
4 services under the medicaid program.

5 (D) A recommendation regarding whether
6 the demonstration project should be continued
7 after December 31, 2008, and expanded on a
8 national basis.

9 (f) WAIVER AUTHORITY.—

10 (1) IN GENERAL.—The Secretary shall waive
11 the limitation of subdivision (B) following paragraph
12 (28) of section 1905(a) of the Social Security Act
13 (42 U.S.C. 1396d(a)) (relating to limitations on pay-
14 ments for care or services for individuals under 65
15 years of age who are patients in an institution for
16 mental diseases) for purposes of carrying out the
17 demonstration project under this section.

18 (2) LIMITED OTHER WAIVER AUTHORITY.—The
19 Secretary may waive other requirements of titles XI
20 and XIX of the Social Security Act (including the
21 requirements of sections 1902(a)(1) (relating to
22 statewideness) and 1902(a)(10)(B) (relating to com-
23 parability)) only to extent necessary to carry out the
24 demonstration project under this section.

25 (g) DEFINITIONS.—In this section:

1 (1) EMERGENCY MEDICAL CONDITION.—The
2 term “emergency medical condition” has the mean-
3 ing given that term in section 1867(e)(1) of the So-
4 cial Security Act (42 U.S.C. 1395dd(e)(1)).

5 (2) FEDERAL MEDICAL ASSISTANCE PERCENT-
6 AGE.—The term “Federal medical assistance per-
7 centage” has the meaning given that term with re-
8 spect to a State in section 1905(b) of the Social Se-
9 curity Act (42 U.S.C. 1396d(b)).

10 (3) INSTITUTION FOR MENTAL DISEASES.—The
11 term “institution for mental diseases” has the mean-
12 ing given that term in section 1905(i) of the Social
13 Security Act (42 U.S.C. 1396d(i)).

14 (4) MEDICAL ASSISTANCE.—The term “medical
15 assistance” has the meaning given that term in sec-
16 tion 1905(a) of the Social Security Act (42 U.S.C.
17 1396d(a)).

18 (5) STABILIZE.—The term “stabilize” has the
19 meaning given that term in section 1867(e)(3)(A) of
20 the Social Security Act (42 U.S.C.
21 1395dd(e)(3)(A)).

22 (6) STATE.—The term “State” has the mean-
23 ing given that term for purposes of title XIX of the
24 Social Security Act (42 U.S.C. 1396 et seq.).

1 **CHAPTER 5—IMPROVING THE MEDICAID**
 2 **AND STATE CHILDREN’S HEALTH IN-**
 3 **SURANCE PROGRAMS**

4 **Subchapter A—Family Opportunity Act**

5 **SEC. 6041. SHORT TITLE OF SUBCHAPTER.**

6 This subchapter may be cited as the “Family Oppor-
 7 tunity Act of 2005” or the “Dylan Lee James Act”.

8 **SEC. 6042. OPPORTUNITY FOR FAMILIES OF DISABLED**
 9 **CHILDREN TO PURCHASE MEDICAID COV-**
 10 **ERAGE FOR SUCH CHILDREN.**

11 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-
 12 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE
 13 FOR SUCH CHILDREN.—

14 (1) IN GENERAL.—Section 1902 (42 U.S.C.
 15 1396a) is amended—

16 (A) in subsection (a)(10)(A)(ii)—

17 (i) by striking “or” at the end of sub-
 18 clause (XVII);

19 (ii) by adding “or” at the end of sub-
 20 clause (XVIII); and

21 (iii) by adding at the end the fol-
 22 lowing new subclause:

23 “(XIX) who are disabled children
 24 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

1 “(C) whose family income does not exceed such
2 income level as the State establishes and does not
3 exceed—

4 “(i) 300 percent of the poverty line (as de-
5 fined in section 2110(c)(5)) applicable to a fam-
6 ily of the size involved; or

7 “(ii) such higher percent of such poverty
8 line as a State may establish, except that—

9 “(I) any medical assistance provided
10 to an individual whose family income ex-
11 ceeds 300 percent of such poverty line may
12 only be provided with State funds; and

13 “(II) no Federal financial participa-
14 tion shall be provided under section
15 1903(a) for any medical assistance pro-
16 vided to such an individual.”.

17 (2) INTERACTION WITH EMPLOYER-SPONSORED
18 FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C.
19 1396a(cc)), as added by paragraph (1)(B), is
20 amended by adding at the end the following new
21 paragraph:

22 “(2)(A) If an employer of a parent of an individual
23 described in paragraph (1) offers family coverage under
24 a group health plan (as defined in section 2791(a) of the
25 Public Health Service Act), the State shall—

1 “(i) require such parent to apply for, enroll in,
2 and pay premiums for such coverage as a condition
3 of such parent’s child being or remaining eligible for
4 medical assistance under subsection
5 (a)(10)(A)(ii)(XIX) if the parent is determined eligi-
6 ble for such coverage and the employer contributes
7 at least 50 percent of the total cost of annual pre-
8 miums for such coverage; and

9 “(ii) if such coverage is obtained—

10 “(I) subject to paragraph (2) of section
11 1916(h), reduce the premium imposed by the
12 State under that section in an amount that rea-
13 sonably reflects the premium contribution made
14 by the parent for private coverage on behalf of
15 a child with a disability; and

16 “(II) treat such coverage as a third party
17 liability under subsection (a)(25).

18 “(B) In the case of a parent to which subparagraph
19 (A) applies, a State, subject to paragraph (1)(C)(ii), may
20 provide for payment of any portion of the annual premium
21 for such family coverage that the parent is required to
22 pay. Any payments made by the State under this subpara-
23 graph shall be considered, for purposes of section 1903(a),
24 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

1 (2) Section 1905(u)(2)(B) (42 U.S.C.
2 1396d(u)(2)(B)) is amended by adding at the end the fol-
3 lowing sentence: “Such term excludes any child eligible for
4 medical assistance only by reason of section
5 1902(a)(10)(A)(ii)(XIX).”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to medical assistance for items and
8 services furnished on or after January 1, 2008.

9 **SEC. 6043. DEMONSTRATION PROJECTS REGARDING HOME**
10 **AND COMMUNITY-BASED ALTERNATIVES TO**
11 **PSYCHIATRIC RESIDENTIAL TREATMENT FA-**
12 **CILITIES FOR CHILDREN.**

13 (a) IN GENERAL.—The Secretary is authorized to
14 conduct, during each of fiscal years 2007 through 2011,
15 demonstration projects (each in the section referred to as
16 a “demonstration project”) in accordance with this section
17 under which up to 10 States (as defined for purposes of
18 title XIX of the Social Security Act) are awarded grants,
19 on a competitive basis, to test the effectiveness in improv-
20 ing or maintaining a child’s functional level and cost-effec-
21 tiveness of providing coverage of home and community-
22 based alternatives to psychiatric residential treatment for
23 children enrolled in the Medicaid program under title XIX
24 of such Act.

25 (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(e) 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

1 and community-based waiver program under section
2 1915(e) of the Social Security Act (42 U.S.C.
3 1396n(e)) for purposes of payment under section
4 1903 of such Act (42 U.S.C. 1396b).

5 (c) TERMS OF DEMONSTRATION PROJECTS.—

6 (1) IN GENERAL.—Except as otherwise pro-
7 vided in this section, a demonstration project shall
8 be subject to the same terms and conditions as apply
9 to a waiver under section 1915(e) of the Social Se-
10 curity Act (42 U.S.C. 1396n(e)), including the waiv-
11 er of certain requirements under the first sentence
12 of paragraph (3) of such section but not applying
13 the second sentence of such paragraph.

14 (2) BUDGET NEUTRALITY.—In conducting the
15 demonstration projects under this section, the Sec-
16 retary shall ensure that the aggregate payments
17 made by the Secretary under title XIX of the Social
18 Security Act (42 U.S.C. 1396 et seq.) do not exceed
19 the amount which the Secretary estimates would
20 have been paid under that title if the demonstration
21 projects under this section had not been imple-
22 mented.

23 (3) EVALUATION.—The application for a dem-
24 onstration project shall include an assurance to pro-
25 vide for such interim and final evaluations of the

1 demonstration project by independent third parties,
2 and for such interim and final reports to the Sec-
3 retary, as the Secretary may require.

4 (d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE
5 AND FUNDING.—

6 (1) IN GENERAL.—Subject to paragraph (2), a
7 demonstration project approved by the Secretary
8 under this section shall be treated as a home and
9 community-based waiver program under section
10 1915(e) of the Social Security Act (42 U.S.C.
11 1396n(c)) for purposes of payment under section
12 1903 of such Act (42 U.S.C. 1396b).

13 (2) LIMITATION.—In no case may the amount
14 of payments made by the Secretary under this sec-
15 tion for State demonstration projects for a fiscal
16 year exceed the amount available under subsection
17 (f)(2)(A) for such fiscal year.

18 (e) SECRETARY'S EVALUATION AND REPORT.—The
19 Secretary shall conduct an interim and final evaluation of
20 State demonstration projects under this section and shall
21 report to the President and Congress the conclusions of
22 such evaluations within 12 months of completing such
23 evaluations.

24 (f) FUNDING.—

1 (1) IN GENERAL.—For the purpose of carrying
2 out this section, there are appropriated, from
3 amounts in the Treasury not otherwise appropriated,
4 for fiscal years 2007 through 2011, a total of
5 \$218,000,000, of which—

6 (A) the amount specified in paragraph (2)
7 shall be available for each of fiscal years 2007
8 through 2011; and

9 (B) a total of \$1,000,000 shall be available
10 to the Secretary for the evaluations and report
11 under subsection (e).

12 (2) FISCAL YEAR LIMIT.—

13 (A) IN GENERAL.—For purposes of para-
14 graph (1), the amount specified in this para-
15 graph for a fiscal year is the amount specified
16 in subparagraph (B) for the fiscal year plus the
17 difference, if any, between the total amount
18 available under this paragraph for prior fiscal
19 years and the total amount previously expended
20 under paragraph (1)(A) for such prior fiscal
21 years.

22 (B) FISCAL YEAR AMOUNTS.—The amount
23 specified in this subparagraph for—

24 (i) fiscal year 2007 is \$21,000,000;

25 (ii) fiscal year 2008 is \$37,000,000;

1 (iii) fiscal year 2009 is \$49,000,000;

2 (iv) fiscal year 2010 is \$53,000,000;

3 and

4 (v) fiscal year 2011 is \$57,000,000.

5 **SEC. 6044. DEVELOPMENT AND SUPPORT OF FAMILY-TO-**
6 **FAMILY HEALTH INFORMATION CENTERS.**

7 Section 501 (42 U.S.C. 701) is amended by adding
8 at the end the following new subsection:

9 “(c)(1)(A) For the purpose of enabling the Secretary
10 (through grants, contracts, or otherwise) to provide for
11 special projects of regional and national significance for
12 the development and support of family-to-family health in-
13 formation centers described in paragraph (2)—

14 “(i) there is appropriated to the Secretary, out
15 of any money in the Treasury not otherwise appro-
16 priated—

17 “(I) \$3,000,000 for fiscal year 2007;

18 “(II) \$4,000,000 for fiscal year 2008; and

19 “(III) \$5,000,000 for fiscal year 2009; and

20 “(ii) there is authorized to be appropriated to
21 the Secretary, \$5,000,000 for each of fiscal years
22 2010 and 2011.

23 “(B) Funds appropriated or authorized to be appro-
24 priated 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.”.

1 **SEC. 6045. RESTORATION OF MEDICAID ELIGIBILITY FOR**
2 **CERTAIN SSI BENEFICIARIES.**

3 (a) **IN GENERAL.**—Section 1902(a)(10)(A)(i)(II) (42
4 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

5 (1) by inserting “(aa)” after “(II)”;

6 (2) by striking “) and” and inserting “and”;

7 (3) by striking “section or who are” and insert-
8 ing “section), (bb) who are”; and

9 (4) by inserting before the comma at the end
10 the following: “, or (cc) who are under 21 years of
11 age and with respect to whom supplemental security
12 income benefits would be paid under title XVI if
13 subparagraphs (A) and (B) of section 1611(c)(7)
14 were applied without regard to the phrase ‘the first
15 day of the month following’ ”.

16 (b) **EFFECTIVE DATE.**—The amendments made by
17 subsection (a) shall apply to medical assistance for items
18 and services furnished on or after the date that is 1 year
19 after the date of enactment of this Act.

1 **Subchapter B—State Children’s Health**
2 **Insurance Program**

3 **SEC. 6051. RULES FOR AVAILABILITY, REDISTRIBUTION,**
4 **AND EXTENDED AVAILABILITY OF ALLOT-**
5 **MENTS FOR FISCAL YEARS 2003, 2004, AND**
6 **2005.**

7 (a) IN GENERAL.—Section 2104 (42 U.S.C. 1397dd)
8 is amended—

9 (1) by amending subsection (e) to read as fol-
10 lows:

11 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), amounts allotted to a State pursuant to
14 this section—

15 “(A) for each of fiscal years 1998 through
16 2003, and for fiscal year 2006 and each fiscal
17 year thereafter, shall remain available for ex-
18 penditure by the State through the end of the
19 second succeeding fiscal year; and

20 “(B) for each of fiscal years 2004 and
21 2005, shall remain available for expenditure by
22 the State during the initial availability period
23 (as defined in paragraph (3)(A)).

1 “(2) AVAILABILITY OF REALLOTMENTS, REDIS-
 2 TRIBUTED AMOUNTS, AND EXTENDED AVAIL-
 3 ABILITY.—

4 “(A) IN GENERAL.—Amounts reallocated to
 5 a State under subsection (f) shall be available
 6 for expenditure by the State through the end of
 7 the fiscal year in which they are reallocated.

8 “(B) AVAILABILITY OF REDISTRIBUTED
 9 FUNDS AND EXTENDED AVAILABILITY.—
 10 Amounts redistributed to a State under sub-
 11 section (i)(3) or (j)(3) and unused allotments of
 12 a State extended under subsection (i)(4) or
 13 (j)(4) are available for expenditure by the State
 14 during the redistribution/extension period (as
 15 defined in paragraph (3)(B)).

16 “(3) PERIODS DEFINED.—For purposes of this
 17 section:

18 “(A) INITIAL AVAILABILITY PERIOD.—The
 19 term ‘initial availability period’ means, with re-
 20 spect to allotments for a fiscal year, the 2-fiscal
 21 year period beginning with that fiscal year.

22 “(B) REDISTRIBUTION/EXTENSION PE-
 23 RIOD.—The term ‘redistribution/extension pe-
 24 riod’ means, with respect to allotments for a

1 fiscal year, the second year following that fiscal
2 year.”; and

3 (2) by adding at the end the following new sub-
4 sections:

5 “(h) RULE FOR REDISTRIBUTION OF FISCAL YEAR
6 2003 ALLOTMENTS.—

7 “(1) COMPUTATION OF UNEXPENDED ALLOT-
8 MENTS FOR FISCAL YEAR 2003.—The Secretary shall
9 determine—

10 “(A) the amount of each State’s allotment
11 under this section for fiscal year 2003 that was
12 not expended by the end of fiscal year 2005;
13 and

14 “(B) the total of the unexpended allot-
15 ments determined under subparagraph (A).

16 “(2) DETERMINATION OF INITIAL PROJECTED
17 SHORTFALLS FOR FISCAL YEAR 2006.—For each
18 State that receives an allotment for fiscal year 2006
19 under subsection (b), the Secretary shall determine
20 the following:

21 “(A) FISCAL YEAR 2005 CARRYOVER.—The
22 amount of the State’s allotment for 2005 that
23 was not expended in fiscal year 2005.

24 “(B) PROJECTED EXPENDITURES FOR FIS-
25 CAL YEAR 2006.—The estimated expenditures

1 for the State as would be reported as quarterly
2 expenditures under section 2105(a) for quarters
3 in fiscal year 2006.

4 “(C) INITIAL PROJECTED SHORTFALL FOR
5 FISCAL YEAR 2006.—The amount, if any, by
6 which the projected expenditures determined
7 under subparagraph (B) for the State for quar-
8 ters in fiscal year 2006 exceeds the sum of the
9 following:

10 “(i) FISCAL YEAR 2005 CARRYOVER.—

11 The amount determined under subpara-
12 graph (A) for the State.

13 “(ii) FISCAL YEAR 2006 ALLOT-

14 MENT.—The amount of the State’s allot-
15 ment for fiscal year 2006.

16 “(D) STATE’S PROPORTION OF AGGREGATE
17 SHORTFALL.—For each State for which there is
18 an excess determined under subparagraph (C),
19 the ratio of—

20 “(i) the amount of such excess; to

21 “(ii) the total of such excesses deter-
22 mined for all States with such an excess.

23 “(3) REDISTRIBUTION OF UNEXPENDED AL-
24 LOTMENTS FOR FISCAL YEAR 2003.—From the total
25 of the unexpended allotments for fiscal year 2003

1 determined under paragraph (1)(B) the Secretary
2 shall redistribute under subsection (f) the following:

3 “(A) STATES OTHER THAN TERRI-
4 TORIES.—There shall be redistributed to each
5 State for which there is an excess determined
6 under paragraph (2)(C) an amount equal to the
7 product of the following:

8 “(i) STATE REDISTRIBUTION POOL.—
9 The amount determined under paragraph
10 (1)(B), reduced by the total amount redis-
11 tributed under subparagraph (B).

12 “(ii) STATE’S SHORTFALL PROPOR-
13 TION.—The ratio described in paragraph
14 (2)(D) for that State.

15 “(B) TERRITORIES.—There shall be redis-
16 tributed to each commonwealth or territory de-
17 scribed in subsection (c)(3) an amount equal to
18 the product of the following:

19 “(i) TERRITORIAL REDISTRIBUTION
20 POOL.—1.05 percent of the amount deter-
21 mined under paragraph (1)(B).

22 “(ii) TERRITORIAL PROPORTION.—
23 The ratio of—

1 “(I) the allotment for fiscal year
2 2003 for such commonwealth or terri-
3 tory under subsection (c), to

4 “(II) the total of all such allot-
5 ments for such fiscal year for such
6 commonwealths or territories under
7 such subsection.

8 “(4) DETERMINATION OF AMOUNTS.—For pur-
9 poses of calculating the amounts described in—

10 “(A) paragraphs (1) and (2)(A), the Sec-
11 retary shall use the amounts reported by the
12 States not later than November 30, 2005, on
13 Form CMS-64 or Form CMS-21, as the case
14 may be, as approved by the Secretary; and

15 “(B) paragraph (2)(B), the Secretary shall
16 use the amounts reported by the States not
17 later than September 30, 2005, on Form CMS-
18 37 or Form CMS-21B, as the case may be, as
19 approved by the Secretary.

20 “(i) REDISTRIBUTION AND EXTENSION OF AVAIL-
21 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR
22 2004.—Notwithstanding subsection (f):

23 “(1) COMPUTATION OF UNEXPENDED ALLOT-
24 MENTS FOR FISCAL YEAR 2004.—

1 “(A) IN GENERAL.—The Secretary shall
2 determine with respect to each State that re-
3 ceives an allotment for fiscal year 2004 under
4 subsection (b)—

5 “(i) the amount of the State’s allot-
6 ment for such fiscal year that was not ex-
7 pended by the end of fiscal year 2005; and

8 “(ii) the total of the unexpended allot-
9 ments determined under clause (i).

10 “(B) REDUCTION OF UNEXPENDED AL-
11 LOTMENT BY NET FISCAL YEAR 2006 SHORT-
12 FALL.—

13 “(i) IN GENERAL.—In the case of a
14 State described in clause (ii), the Secretary
15 shall reduce, but not below 0, the amount
16 determined for the State under subpara-
17 graph (A)(i) (relating to the State’s unex-
18 pended allotment for fiscal year 2004) by
19 the amount of the allotment of the State
20 for which availability is extended under
21 paragraph (4)(A).

22 “(ii) STATE DESCRIBED.—A State de-
23 scribed in this clause is a State that meets
24 the following requirements:

1 “(I) FULLY SPENT FISCAL YEAR
2 2003 ALLOTMENT.—The State’s allot-
3 ment under this section for fiscal year
4 2003 was fully expended by the end of
5 fiscal year 2005.

6 “(II) DID NOT FULLY EXPEND
7 FISCAL YEAR 2004 ALLOTMENT BY
8 END OF FISCAL YEAR 2005.—The
9 State’s allotment under this section
10 for fiscal year 2004 was not fully ex-
11 pended by the end of fiscal year 2005.

12 “(III) PROJECTED FISCAL YEAR
13 2006 SHORTFALL.—The State has an
14 excess determined under subsection
15 (h)(2)(C) (relating to initial projected
16 fiscal year 2006 shortfall).

17 “(C) TOTALS AND RATIOS.—The Secretary
18 shall determine the following:

19 “(i) REDISTRIBUTION POOL.—A redis-
20 tribution pool equal to the total of the
21 amounts determined under subparagraph
22 (A)(i), as reduced (if applicable) under
23 subparagraph (B)(i).

24 “(ii) STATE PROPORTION TOWARD RE-
25 DISTRIBUTION POOL.—For each State in

1 which the amount determined under sub-
 2 paragraph (A)(i) (as reduced, if applicable,
 3 under subparagraph (B)(i)) exceeds 0, the
 4 ratio of—

5 “(I) such amount (as so reduced)
 6 for the State; to

7 “(II) the total determined under
 8 clause (i).

9 “(D) AMOUNT OF UNEXPENDED FISCAL
 10 YEAR 2004 ALLOTMENT APPLIED TO REDIS-
 11 TRIBUTIONS.—For each State described in sub-
 12 paragraph (C)(ii), the Secretary shall determine
 13 a redistribution/reduction amount equal to the
 14 product of the following:

15 “(i) TOTAL AMOUNT REDISTRIB-
 16 UTED.—The total amount redistributed
 17 under paragraph (3).

18 “(ii) STATE’S PROPORTION OF UNEX-
 19 PENDED ALLOTMENTS.—The ratio for the
 20 State determined under subparagraph
 21 (C)(ii).

22 “(2) DETERMINATION OF NET PROJECTED
 23 SHORTFALLS FOR FISCAL YEAR 2006.—For each
 24 State that has an excess determined under sub-
 25 section (h)(2)(C) (relating to initial projected fiscal

1 year 2006 shortfall), the Secretary shall determine
2 an amount equal to the amount determined under
3 such subsection, reduced by the sum of—

4 “(A) the amount redistributed to the State
5 under subsection (h)(3)(A), and

6 “(B) the amount of funds of the State for
7 which availability is extended under paragraph
8 (4)(A).

9 “(3) REDISTRIBUTION FROM REDISTRIBUTION
10 POOL.—From the redistribution pool determined
11 under paragraph (1)(C)(i)—

12 “(A) STATES OTHER THAN TERRI-
13 TORIES.—There shall be redistributed to each
14 State which has a net projected shortfall under
15 paragraph (2) an amount determined under
16 such paragraph for the State.

17 “(B) TERRITORIES.—There shall be redis-
18 tributed to each commonwealth or territory de-
19 scribed in subsection (c)(3) an amount equal to
20 the product of the following:

21 “(i) TERRITORIAL REDISTRIBUTION
22 POOL.—1.05 percent of the amount of
23 such unexpended allotments determined
24 under paragraph (1)(A)(ii).

1 “(ii) TERRITORIAL PROPORTION.—

2 The ratio of—

3 “(I) the allotment under sub-
4 section (c) for such commonwealth or
5 territory for fiscal year 2004, to

6 “(II) the total of all such allot-
7 ments for such commonwealths and
8 territories.

9 “(4) EXTENDED AVAILABILITY OF REMAINING
10 UNEXPENDED ALLOTMENTS.—

11 “(A) TO MEET NET SHORTFALL FOR FIS-
12 CAL YEAR 2006.—In the case of a State de-
13 scribed in paragraph (1)(B)(ii), the Secretary
14 shall extend the availability of funds from the
15 State’s allotment for fiscal year 2004 to the ex-
16 tent that—

17 “(i) the amount determined under
18 subsection (h)(2)(C) (relating to initial
19 shortfall for fiscal year 2006), exceeds

20 “(ii) the amount redistributed to the
21 State under subsection (h)(3)(A).

22 “(B) OTHER EXTENSIONS.—The Secretary
23 shall extend the availability of funds from allot-
24 ments for fiscal year 2004 for each State which
25 has an unexpended allotment for fiscal year

1 2004 determined under paragraph (1)(A) (as
2 reduced, if applicable, under paragraph (1)(B))
3 by an amount equal to the amount (if any) by
4 which—

5 “(i) the amount of such unexpended
6 allotment (as so reduced) for the State, ex-
7 ceeds

8 “(ii) the redistribution/reduction
9 amount determined under paragraph
10 (1)(D) for the State (relating to the por-
11 tion of the unexpended allotment applied
12 to redistributions).

13 “(5) DETERMINATION OF AMOUNTS.—For pur-
14 poses of calculating the amounts described in—

15 “(A) paragraph (1)(A)(i), the Secretary
16 shall use the amounts reported by the States
17 not later than November 30, 2005, on Form
18 CMS-64 or Form CMS-21, as the case may be,
19 as approved by the Secretary; and

20 “(B) paragraph (1)(B)(i), the Secretary
21 shall use the amounts reported by the States
22 not later than September 30, 2005, on Form
23 CMS-37 or Form CMS-21B, as the case may
24 be, as approved by the Secretary.

1 “(j) REDISTRIBUTION AND EXTENSION OF AVAIL-
2 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR
3 2005.—Notwithstanding subsection (f):

4 “(1) COMPUTATION OF UNEXPENDED ALLOT-
5 MENTS FOR FISCAL YEAR 2005.—

6 “(A) IN GENERAL.—The Secretary shall
7 determine with respect to each State that re-
8 ceives an allotment for fiscal year 2005 under
9 subsection (b)—

10 “(i) the amount of the State’s allot-
11 ment for fiscal year 2005 that was not ex-
12 pended by the end of fiscal year 2006; and

13 “(ii) the total of the unexpended allot-
14 ments determined under clause (i).

15 “(B) REDUCTION OF UNEXPENDED AL-
16 LOTMENT BY NET FISCAL YEAR 2007 SHORT-
17 FALL.—

18 “(i) IN GENERAL.—In the case of a
19 State described in clause (ii), the Secretary
20 shall reduce, but not below 0, the amount
21 determined for the State under subpara-
22 graph (A)(i) (relating to the State’s unex-
23 pended allotment for fiscal year 2005) by
24 the amount of the allotment of the State

1 for which availability is extended under
2 paragraph (4)(A).

3 “(ii) STATE DESCRIBED.—A State de-
4 scribed in this clause is a State that meets
5 the following requirements:

6 “(I) DID NOT FULLY EXPEND
7 FISCAL YEAR 2005 ALLOTMENT BY
8 END OF FISCAL YEAR 2006.—The
9 State’s allotment under this section
10 for fiscal year 2005 was not fully ex-
11 pended by the end of fiscal year 2006.

12 “(II) PROJECTED SHORTFALL
13 FOR FISCAL YEAR 2007.—The State
14 has an excess determined under para-
15 graph (2)(C) for fiscal year 2007 (re-
16 lating to initial projected fiscal year
17 2007 shortfall).

18 “(C) TOTALS AND RATIOS.—The Secretary
19 shall determine the following:

20 “(i) REDISTRIBUTION POOL.—A redis-
21 tribution pool equal to the total of the
22 amounts determined under subparagraph
23 (A)(i), as reduced (if applicable) under
24 subparagraph (B)(i).

1 “(ii) STATE PROPORTION TOWARD RE-
2 DISTRIBUTION POOL.—For each State in
3 which the amount determined under sub-
4 paragraph (A)(i) (as reduced, if applicable,
5 under subparagraph (B)(i)) exceeds 0, the
6 ratio of—

7 “(I) such amount (as so reduced)
8 for the State; to

9 “(II) the total determined under
10 clause (i).

11 “(D) AMOUNT OF UNEXPENDED FISCAL
12 YEAR 2005 ALLOTMENT APPLIED TO REDIS-
13 TRIBUTIONS.—For each State described in sub-
14 paragraph (C)(ii), the Secretary shall determine
15 a redistribution/reduction amount equal to the
16 product of the following:

17 “(i) TOTAL AMOUNT REDISTRIB-
18 UTED.—The total amount redistributed
19 under paragraph (3).

20 “(ii) STATE’S PROPORTION OF UNEX-
21 PENDED ALLOTMENTS.—The ratio for the
22 State determined under subparagraph
23 (C)(ii).

24 “(2) DETERMINATION OF INITIAL PROJECTED
25 SHORTFALLS FOR FISCAL YEAR 2007.—For each

1 State that receives an allotment for fiscal year 2007
2 under subsection (b), the Secretary shall determine
3 the following:

4 “(A) FISCAL YEAR 2006 CARRYOVER.—The
5 amount of the State’s allotment for fiscal year
6 2006 that was not expended in fiscal year 2006.

7 “(B) PROJECTED EXPENDITURES FOR FIS-
8 CAL YEAR 2007.—The estimated expenditures
9 for the State as would be reported as quarterly
10 expenditures under section 2105(a) for quarters
11 in fiscal year 2007.

12 “(C) INITIAL PROJECTED SHORTFALL FOR
13 FISCAL YEAR 2007.—The amount, if any, by
14 which the projected expenditures determined
15 under subparagraph (B) for the State for quar-
16 ters in fiscal year 2007 exceeds the sum of the
17 following:

18 “(i) FISCAL YEAR 2006 CARRYOVER.—
19 The amount determined under subpara-
20 graph (A) for the State.

21 “(ii) FISCAL YEAR 2007 ALLOT-
22 MENT.—The amount of the State’s allot-
23 ment for fiscal year 2007.

24 “(D) DETERMINATION OF NET PROJECTED
25 SHORTFALLS FOR FISCAL YEAR 2007.—For each

1 State that has an excess determined under sub-
2 paragraph (C), the Secretary shall determine an
3 amount equal to the amount determined under
4 such subparagraph, reduced by the amount of
5 funds (if any) of the State for which availability
6 is extended under paragraph (4)(A).

7 “(E) STATE’S PROPORTION OF NET AG-
8 GREGATE SHORTFALL.—For each State for
9 which there is a net excess determined under
10 subparagraph (D), the ratio of—

11 “(i) the amount of such net excess; to

12 “(ii) the total of such net excesses.

13 “(3) REDISTRIBUTION FROM REDISTRIBUTION
14 POOL.—From the redistribution pool determined
15 under paragraph (1)(C)(i)—

16 “(A) STATES OTHER THAN TERRI-
17 TORIES.—There shall be redistributed to each
18 State for which there is a net projected short-
19 fall under paragraph (2)(D) an amount equal
20 the lesser of the following:

21 “(i) NET FISCAL YEAR 2007 SHORT-
22 FALL.—The amount of the net excess de-
23 scribed in paragraph (2)(D) for the State.

1 “(ii) PORTION OF UNEXPENDED
2 FUNDS AVAILABLE.—The product of the
3 following:

4 “(I) STATE REDISTRIBUTION
5 POOL.—The amount determined
6 under paragraph (1)(C)(i), reduced by
7 the total amount redistributed under
8 subparagraph (B).

9 “(II) STATE’S SHORTFALL PRO-
10 PORTION.—The ratio described in
11 paragraph (2)(E) for that State.

12 “(B) TERRITORIES.—There shall be redis-
13 tributed to each commonwealth or territory de-
14 scribed in subsection (c)(3) an amount equal to
15 the product of the following:

16 “(i) TERRITORIAL REDISTRIBUTION
17 POOL.—1.05 percent of the total amount
18 of unexpended allotments determined
19 under paragraph (1)(A)(ii).

20 “(ii) TERRITORIAL PROPORTION.—
21 The ratio of—

22 “(I) the allotment under sub-
23 section (c) for such commonwealth or
24 territory for fiscal year 2005, to

1 “(II) the total of all such allot-
2 ments for such commonwealths and
3 territories.

4 “(4) EXTENDED AVAILABILITY OF REMAINING
5 UNEXPENDED ALLOTMENTS.—

6 “(A) TO MEET INITIAL PROJECTED
7 SHORTFALL FOR FISCAL YEAR 2007.—In the
8 case of a State that is described in paragraph
9 (1)(B)(ii), the Secretary shall extend the avail-
10 ability of funds from the State’s allotment for
11 fiscal year 2005 to the extent of the amount de-
12 scribed in paragraph (2)(C).

13 “(B) OTHER EXTENSIONS.—If the redis-
14 tribution pool amount determined under para-
15 graph (1)(C)(i) exceeds the total amount redis-
16 tributed under paragraph (3), the Secretary
17 shall extend the availability of funds from allot-
18 ments for fiscal year 2005 for each State which
19 has an unexpended allotment for that fiscal
20 year determined under paragraph (1)(A) (as re-
21 duced, if applicable, under paragraph (1)(B))
22 by an amount equal to the amount (if any) by
23 which—

1 “(i) the amount of the unexpended al-
2 lotment (as so reduced) for the State, ex-
3 ceeds

4 “(ii) the redistribution/reduction
5 amount determined under paragraph
6 (1)(D) for the State (relating to the por-
7 tion of the unexpended allotment applied
8 to redistributions).

9 “(5) DETERMINATION OF AMOUNTS.—For pur-
10 poses of calculating the amounts described in—

11 “(A) paragraph (1)(A), the Secretary shall
12 use the amounts reported by the States not
13 later than November 30, 2006, on Form CMS-
14 64 or Form CMS-21, as the case may be, as
15 approved by the Secretary; or

16 “(B) paragraph (2), the Secretary shall
17 use the amounts reported by the States not
18 later than September 30, 2006, on Form CMS-
19 37 or Form CMS-21B, as the case may be, as
20 approved by the Secretary.”.

21 (b) USE OF REDISTRIBUTED FUNDS FOR CHILD
22 HEALTH ASSISTANCE FOR TARGETED LOW-INCOME
23 CHILDREN.—Section 2105(a) (42 U.S.C. 1397ee(a)) is
24 amended—

1 (1) in paragraph (1), in the matter preceding
2 subparagraph (A), by inserting “or paragraph (3)”
3 after “subparagraph (B)”; and

4 (2) by adding at the end the following:

5 “(3) USE OF REDISTRIBUTED FUNDS FOR
6 CHILD HEALTH ASSISTANCE FOR TARGETED LOW-IN-
7 COME CHILDREN.—For purposes of paragraph (1),
8 the expenditures described in this paragraph are ex-
9 penditures that are not expenditures for child health
10 assistance for targeted low-income children, but only
11 if such expenditures are from any amounts redistrib-
12 uted under subparagraphs (A) or (B) of subsection
13 (h)(3), (i)(3), or (j)(3) of section 2104.”.

14 **SEC. 6052. AUTHORITY TO USE UP TO 10 PERCENT OF FIS-**
15 **CAL YEAR 2006 AND 2007 ALLOTMENTS FOR**
16 **OUTREACH.**

17 Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is
18 amended by adding at the end the following:

19 “(C) USE OF UP TO 10 PERCENT OF 2006
20 AND 2007 ALLOTMENTS FOR OUTREACH ACTIVI-
21 TIES.—Notwithstanding subparagraph (A), a
22 State may use up to 10 percent of the allotment
23 for the State for fiscal year 2006 and for fiscal
24 year 2007 for expenditures incurred during the

1 respective fiscal year for outreach activities as
2 provided in section 2102(c)(1) under the plan.”.

3 **SEC. 6053. PROHIBITION AGAINST COVERING NONPREG-**
4 **NANT CHILDLESS ADULTS WITH SCHIP**
5 **FUNDS.**

6 (a) PROHIBITION ON USE OF SCHIP FUNDS.—Sec-
7 tion 2107 (42 U.S.C. 1397gg) is amended by adding at
8 the end the following:

9 “(f) LIMITATION OF WAIVER AUTHORITY.—Notwith-
10 standing subsection (e)(2)(A) and section 1115(a), on and
11 after the date of enactment of this subsection, the Sec-
12 retary may not approve a waiver, experimental, pilot, or
13 demonstration project that would allow funds made avail-
14 able under this title to be used to provide child health as-
15 sistance or other health benefits coverage to a nonpreg-
16 nant childless adult. For purposes of the preceding sen-
17 tence, a caretaker relative (as such term is defined for pur-
18 poses of carrying out section 1931) shall not be considered
19 a childless adult.”.

20 (b) CONFORMING AMENDMENTS.—Section
21 2105(c)(1) (42 U.S.C. 1397ee(c)(1)) is amended—

22 (1) by inserting “and may not include coverage
23 of a nonpregnant childless adult” after “section
24 2101”); and

1 (2) by adding at the end the following: “For
2 purposes of the preceding sentence, a caretaker rel-
3 ative (as such term is defined for purposes of car-
4 rying out section 1931) shall not be considered a
5 childless adult.”.

6 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion or the amendments made by this section shall be con-
8 strued to—

9 (1) authorize the waiver of any provision of title
10 XIX or XXI of the Social Security Act (42 U.S.C.
11 1396 et seq., 1397aa et seq.) that is not otherwise
12 authorized to be waived under such titles or under
13 title XI of such Act (42 U.S.C. 1301 et seq.) as of
14 the date of enactment of this Act;

15 (2) imply congressional approval of any waiver,
16 experimental, pilot, or demonstration project affect-
17 ing funds made available under the State children’s
18 health insurance program under title XXI of the So-
19 cial Security Act (42 U.S.C. 1397aa et. seq.) or any
20 amendment to such a waiver or project that has
21 been approved as of such date of enactment; or

22 (3) apply to any waiver, experimental, pilot, or
23 demonstration project that would allow funds made
24 available under title XXI of the Social Security Act
25 (42 U.S.C. 1397aa et seq.) to be used to provide

1 child health assistance or other health benefits cov-
2 erage to a nonpregnant childless adult that is ap-
3 proved before the date of enactment of this Act or
4 to any extension, renewal, or amendment of such a
5 waiver or project that is approved on or after such
6 date of enactment.

7 **SEC. 6054. CONTINUED AUTHORITY FOR QUALIFYING**
8 **STATES TO USE CERTAIN FUNDS FOR MED-**
9 **ICAID EXPENDITURES.**

10 (a) IN GENERAL.—Section 2105(g)(1)(A) (42 U.S.C.
11 1397ee(g)(1)(A)) is amended by striking “or 2001” and
12 inserting “2001, 2004, or 2005”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply to expenditures made under title
15 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)
16 on or after October 1, 2005.

17 **SEC. 6055. GRANTS TO PROMOTE INNOVATIVE OUTREACH**
18 **AND ENROLLMENT UNDER MEDICAID AND**
19 **SCHIP.**

20 Title XXI (42 U.S.C. 1397aa et seq.) is amended by
21 adding at the end the following:

22 **“SEC. 2111. EXPANDED OUTREACH ACTIVITIES.**

23 **“(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH**
24 **AND ENROLLMENT EFFORTS.—**

1 “(1) IN GENERAL.—The Secretary shall award
2 grants to eligible entities to—

3 “(A) conduct innovative outreach and en-
4 rollment efforts that are designed to increase
5 the enrollment and participation of eligible chil-
6 dren under this title and title XIX; and

7 “(B) promote understanding of the impor-
8 tance of health insurance coverage for prenatal
9 care and children.

10 “(2) PERFORMANCE BONUSES.—The Secretary
11 may reserve a portion of the funds appropriated
12 under subsection (g) for a fiscal year for the purpose
13 of awarding performance bonuses during the suc-
14 ceeding fiscal year to eligible entities that meet en-
15 rollment goals or other criteria established by the
16 Secretary.

17 “(b) PRIORITY FOR AWARD OF GRANTS.—

18 “(1) IN GENERAL.—In making grants under
19 subsection (a)(1), the Secretary shall give priority
20 to—

21 “(A) eligible entities that propose to target
22 geographic areas with high rates of—

23 “(i) eligible but unenrolled children,
24 including such children who reside in rural
25 areas; or

1 “(ii) racial and ethnic minorities and
2 health disparity populations, including
3 those proposals that address cultural and
4 linguistic barriers to enrollment; and

5 “(B) eligible entities that plan to engage in
6 outreach efforts with respect to individuals de-
7 scribed in subparagraph (A) and that are—

8 “(i) Federal health safety net organi-
9 zations; or

10 “(ii) faith-based organizations or con-
11 sortia.

12 “(2) 10 PERCENT SET ASIDE FOR OUTREACH
13 TO INDIAN CHILDREN.—An amount equal to 10 per-
14 cent of the funds appropriated under subsection (g)
15 for a fiscal year shall be used by the Secretary to
16 award grants to Indian Health Service providers and
17 urban Indian organizations receiving funds under
18 title V of the Indian Health Care Improvement Act
19 (25 U.S.C. 1651 et seq.) for outreach to, and enroll-
20 ment of, children who are Indians.

21 “(c) APPLICATION.—An eligible entity that desires to
22 receive a grant under subsection (a)(1) shall submit an
23 application to the Secretary in such form and manner, and
24 containing such information, as the Secretary may decide.
25 Such application shall include—

1 “(1) quality and outcomes performance meas-
2 ures to evaluate the effectiveness of activities funded
3 by a grant awarded under this section to ensure that
4 the activities are meeting their goals; and

5 “(2) an assurance that the entity shall—

6 “(A) conduct an assessment of the effec-
7 tiveness of such activities against such perform-
8 ance measures; and

9 “(B) cooperate with the collection and re-
10 porting of enrollment data and other informa-
11 tion determined as a result of conducting such
12 assessments to the Secretary, in such form and
13 manner as the Secretary shall require.

14 “(d) DISSEMINATION OF ENROLLMENT DATA AND
15 INFORMATION DETERMINED FROM EFFECTIVENESS AS-
16 SESSMENTS; ANNUAL REPORT.—The Secretary shall—

17 “(1) disseminate to eligible entities and make
18 publicly available the enrollment data and informa-
19 tion collected and reported in accordance with sub-
20 section (c)(2)(B); and

21 “(2) submit an annual report to Congress on
22 the outreach activities funded by grants awarded
23 under this section.

24 “(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds
25 awarded under this section shall be used to supplement,

1 not supplant, non-Federal funds that are otherwise avail-
2 able for activities funded under this section.

3 “(f) DEFINITIONS.—In this section:

4 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
5 tity’ means any of the following:

6 “(A) A State or local government.

7 “(B) A Federal health safety net organiza-
8 tion.

9 “(C) A national, local, or community-based
10 public or nonprofit private organization.

11 “(D) A faith-based organization or con-
12 sortia, to the extent that a grant awarded to
13 such an entity is consistent with the require-
14 ments of section 1955 of the Public Health
15 Service Act (42 U.S.C. 300x–65) relating to a
16 grant award to non-governmental entities.

17 “(E) An elementary or secondary school.

18 “(2) FEDERAL HEALTH SAFETY NET ORGANI-
19 ZATION.—The term ‘Federal health safety net orga-
20 nization’ means—

21 “(A) an Indian tribe, tribal organization,
22 or an urban Indian organization receiving funds
23 under title V of the Indian Health Care Im-
24 provement Act (25 U.S.C. 1651 et seq.), or an
25 Indian Health Service provider;

1 “(B) a Federally-qualified health center
2 (as defined in section 1905(l)(2)(B));

3 “(C) a hospital defined as a dispro-
4 portionate share hospital for purposes of section
5 1923;

6 “(D) a covered entity described in section
7 340B(a)(4) of the Public Health Service Act
8 (42 U.S.C. 256b(a)(4)); and

9 “(E) any other entity or a consortium that
10 serves children under a federally-funded pro-
11 gram, including the special supplemental nutri-
12 tion program for women, infants, and children
13 (WIC) established under section 17 of the Child
14 Nutrition Act of 1966 (42 U.S.C. 1786), the
15 head start and early head start programs under
16 the Head Start Act (42 U.S.C. 9801 et seq.),
17 the school lunch program established under the
18 Richard B. Russell National School Lunch Act,
19 and an elementary or secondary school.

20 “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-
21 ZATION; URBAN INDIAN ORGANIZATION.—The terms
22 ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and
23 ‘urban Indian organization’ have the meanings given
24 such terms in section 4 of the Indian Health Care
25 Improvement Act (25 U.S.C. 1603).

1 “(g) APPROPRIATION.—There is appropriated, out of
 2 any money in the Treasury not otherwise appropriated,
 3 \$25,000,000 for fiscal year 2007 for the purpose of
 4 awarding grants under this section. Amounts appropriated
 5 and paid under the authority of this section shall—

6 “(1) be in addition to amounts appropriated
 7 under section 2104 and paid to States in accordance
 8 with section 2105; and

9 “(2) not be subject to the limitation on expendi-
 10 tures described in section 2105(c)(2)(A).”.

11 **Subchapter C—Money Follows the Person**

12 **Rebalancing Demonstration**

13 **SEC. 6061. MONEY FOLLOWS THE PERSON REBALANCING** 14 **DEMONSTRATION.**

15 (a) PROGRAM PURPOSE AND AUTHORITY.—The Sec-
 16 retary is authorized to award, on a competitive basis,
 17 grants to States in accordance with this section for dem-
 18 onstration projects (each in this section referred to as an
 19 “MFP demonstration project”) designed to achieve the
 20 following objectives with respect to institutional and home
 21 and community-based long-term care services under State
 22 Medicaid programs:

23 (1) REBALANCING.—Increase the use of home
 24 and community-based, rather than institutional,
 25 long-term care services.

1 (2) MONEY FOLLOWS THE PERSON.—Eliminate
2 barriers or mechanisms, whether in the State law,
3 the State Medicaid plan, the State budget, or other-
4 wise, that prevent or restrict the flexible use of Med-
5 icaid funds to enable Medicaid-eligible individuals to
6 receive support for appropriate and necessary long-
7 term services in the settings of their choice.

8 (3) CONTINUITY OF SERVICE.—Increase the
9 ability of the State Medicaid program to assure con-
10 tinued provision of home and community-based long-
11 term care services to eligible individuals who choose
12 to transition from an institutional to a community
13 setting.

14 (4) QUALITY ASSURANCE AND QUALITY IM-
15 PROVEMENT.—Ensure that procedures are in place
16 (at least comparable to those required under the
17 qualified HCB program) to provide quality assur-
18 ance for eligible individuals receiving Medicaid home
19 and community-based long-term care services and to
20 provide for continuous quality improvement in such
21 services.

22 (b) DEFINITIONS.—For purposes of this section:

23 (1) HOME AND COMMUNITY-BASED LONG-TERM
24 CARE SERVICES.—The term “home and community-
25 based long-term care services” means, with respect

1 to a State Medicaid program, home and community-
2 based services (including home health and personal
3 care services) that are provided under the State's
4 qualified HCB program or that could be provided
5 under such a program but are otherwise provided
6 under the Medicaid program.

7 (2) ELIGIBLE INDIVIDUAL.—The term “eligible
8 individual” means, with respect to an MFP dem-
9 onstration project of a State, an individual in the
10 State—

11 (A) who, immediately before beginning
12 participation in the MFP demonstration
13 project—

14 (i) resides (and has resided, for a pe-
15 riod of not less than 6 months or for such
16 longer minimum period, not to exceed 2
17 years, as may be specified by the State) in
18 an inpatient facility;

19 (ii) is receiving Medicaid benefits for
20 inpatient services furnished by such inpa-
21 tient facility; and

22 (iii) with respect to whom a deter-
23 mination has been made that, but for the
24 provision of home and community-based
25 long-term care services, the individual

1 would continue to require the level of care
2 provided in an inpatient facility; and

3 (B) who resides in a qualified residence be-
4 ginning on the initial date of participation in
5 the demonstration project.

6 (3) INPATIENT FACILITY.—The term “inpatient
7 facility” means a hospital, nursing facility, or inter-
8 mediate care facility for the mentally retarded. Such
9 term includes an institution for mental diseases, but
10 only, with respect to a State, to the extent medical
11 assistance is available under the State Medicaid plan
12 for services provided by such institution.

13 (4) MEDICAID.—The term “Medicaid” means,
14 with respect to a State, the State program under
15 title XIX of the Social Security Act (including any
16 waiver or demonstration under such title or under
17 section 1115 of such Act relating to such title).

18 (5) QUALIFIED HCB PROGRAM.—The term
19 “qualified HCB program” means a program pro-
20 viding home and community-based long-term care
21 services operating under Medicaid, whether or not
22 operating under waiver authority.

23 (6) QUALIFIED RESIDENCE.—The term “quali-
24 fied residence” means, with respect to an eligible in-
25 dividual—

1 (A) a home owned or leased by the indi-
2 vidual or the individual's family member;

3 (B) an apartment with an individual lease,
4 with lockable access and egress, and which in-
5 cludes living, sleeping, bathing, and cooking
6 areas over which the individual or the individ-
7 ual's family has domain and control; and

8 (C) a residence, in a community-based res-
9 idential setting, in which no more than 4 unre-
10 lated individuals reside.

11 (7) QUALIFIED EXPENDITURES.—The term
12 “qualified expenditures” means expenditures by the
13 State under its MFP demonstration project for
14 home and community-based long-term care services
15 for an eligible individual participating in the MFP
16 demonstration project, but only with respect to serv-
17 ices furnished during the 12-month period beginning
18 on the date the individual is discharged from an in-
19 patient facility referred to in paragraph (2)(A)(i).

20 (8) SELF-DIRECTED SERVICES.—The term
21 “self-directed” means, with respect to home and
22 community-based long-term care services for an eli-
23 gible individual, such services for the individual
24 which are planned and purchased under the direc-
25 tion 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;

1 (iii) specifies the role of family mem-
2 bers and others whose participation is
3 sought by the individual or the individual's
4 authorized representative with respect to
5 such services;

6 (iv) is developed through a person-
7 centered process that—

8 (I) is directed by the individual
9 or the individual's authorized rep-
10 resentative;

11 (II) builds upon the individual's
12 capacity to engage in activities that
13 promote community life and that re-
14 spects the individual's preferences,
15 choices, and abilities; and

16 (III) involves families, friends,
17 and professionals as desired or re-
18 quired by the individual or the indi-
19 vidual's authorized representative;

20 (v) includes appropriate risk manage-
21 ment techniques that recognize the roles
22 and sharing of responsibilities in obtaining
23 services in a self-directed manner and as-
24 sure the appropriateness of such plan
25 based upon the resources and capabilities

1 of the individual or the individual's author-
2 ized representative; and

3 (vi) may include an individualized
4 budget which identifies the dollar value of
5 the services and supports under the control
6 and direction of the individual or the indi-
7 vidual's authorized representative.

8 (C) BUDGET PROCESS.—With respect to
9 individualized budgets described in subpara-
10 graph (B)(vi), the State application under sub-
11 section (c)—

12 (i) describes the method for calcu-
13 lating the dollar values in such budgets
14 based on reliable costs and service utiliza-
15 tion;

16 (ii) defines a process for making ad-
17 justments in such dollar values to reflect
18 changes in individual assessments and
19 service plans; and

20 (iii) provides a procedure to evaluate
21 expenditures under such budgets.

22 (9) STATE.—The term “State” has the mean-
23 ing given such term for purposes of title XIX of the
24 Social Security Act.

1 (c) STATE APPLICATION.—A State seeking approval
2 of an MFP demonstration project shall submit to the Sec-
3 retary, at such time and in such format as the Secretary
4 requires, an application meeting the following require-
5 ments and containing such additional information, provi-
6 sions, and assurances, as the Secretary may require:

7 (1) ASSURANCE OF A PUBLIC DEVELOPMENT
8 PROCESS.—The application contains an assurance
9 that the State has engaged, and will continue to en-
10 gage, in a public process for the design, develop-
11 ment, and evaluation of the MFP demonstration
12 project that allows for input from eligible individ-
13 uals, the families of such individuals, authorized rep-
14 resentatives of such individuals, providers, and other
15 interested parties.

16 (2) OPERATION IN CONNECTION WITH QUALI-
17 FIED HCB PROGRAM TO ASSURE CONTINUITY OF
18 SERVICES.—The State will conduct the MFP dem-
19 onstration project for eligible individuals in conjunc-
20 tion with the operation of a qualified HCB program
21 that is in operation (or approved) in the State for
22 such individuals in a manner that assures continuity
23 of Medicaid coverage for such individuals so long as
24 such individuals continue to be eligible for medical
25 assistance.

1 (3) DEMONSTRATION PROJECT PERIOD.—The
2 application shall specify the period of the MFP dem-
3 onstration project, which shall include at least 2 con-
4 secutive fiscal years in the 5-fiscal-year period begin-
5 ning with fiscal year 2009.

6 (4) SERVICE AREA.—The application shall
7 specify the service area or areas of the MFP dem-
8 onstration project, which may be a statewide area or
9 one or more geographic areas of the State.

10 (5) TARGETED GROUPS AND NUMBERS OF INDI-
11 VIDUALS SERVED.—The application shall specify—

12 (A) the target groups of eligible individuals
13 to be assisted to transition from an inpatient
14 facility to a qualified residence during each fis-
15 cal year of the MFP demonstration project;

16 (B) the projected numbers of eligible indi-
17 viduals in each targeted group of eligible indi-
18 viduals to be so assisted during each such year;
19 and

20 (C) the estimated total annual qualified ex-
21 penditures for each fiscal year of the MFP
22 demonstration project.

23 (6) INDIVIDUAL CHOICE, CONTINUITY OF
24 CARE.—The application shall contain assurances
25 that—

1 (A) each eligible individual or the individ-
2 ual's authorized representative will be provided
3 the opportunity to make an informed choice re-
4 garding whether to participate in the MFP
5 demonstration project;

6 (B) each eligible individual or the individ-
7 ual's authorized representative will choose the
8 qualified residence in which the individual will
9 reside and the setting in which the individual
10 will receive home and community-based long-
11 term care services;

12 (C) the State will continue to make avail-
13 able, so long as the State operates its qualified
14 HCB program consistent with applicable re-
15 quirements, home and community-based long-
16 term care services to each individual who com-
17 pletes participation in the MFP demonstration
18 project for as long as the individual remains eli-
19 gible for medical assistance for such services
20 under such qualified HCB program (including
21 meeting a requirement relating to requiring a
22 level of care provided in an inpatient facility
23 and continuing to require such services).

24 (7) REBALANCING.—The application shall—

1 (A) provide such information as the Sec-
2 retary may require concerning the dollar
3 amounts of State Medicaid expenditures for the
4 fiscal year, immediately preceding the first fis-
5 cal year of the State's MFP demonstration
6 project, for long-term care services and the per-
7 centage of such expenditures that were for in-
8 stitutional long-term care services or were for
9 home and community-based long-term care
10 services;

11 (B)(i) specify the methods to be used by
12 the State to increase, for each fiscal year dur-
13 ing the MFP demonstration project, the dollar
14 amount of such total expenditures for home and
15 community-based long-term care services and
16 the percentage of such total expenditures for
17 long-term care services that are for home and
18 community-based long-term care services; and

19 (ii) describe the extent to which the MFP
20 demonstration project will contribute to accom-
21 plishment of objectives described in subsection
22 (a).

23 (8) MONEY FOLLOWS THE PERSON.—The appli-
24 cation shall describe the methods to be used by the
25 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-

1 tion, the State program would continue to meet
2 the cost-effectiveness requirements of subsection
3 (c)(2)(D) of such section or comparable require-
4 ments under subsection (d)(5) of such section,
5 respectively.

6 (10) WAIVER REQUESTS.—The application shall
7 contain or be accompanied by requests for any modi-
8 fication or adjustment of waivers of Medicaid re-
9 quirements described in subsection (d)(3), including
10 adjustments to the maximum numbers of individuals
11 included and package of benefits, including one-time
12 transitional services, provided.

13 (11) QUALITY ASSURANCE AND QUALITY IM-
14 PROVEMENT.—The application shall include—

15 (A) a plan satisfactory to the Secretary for
16 quality assurance and quality improvement for
17 home and community-based long-term care
18 services under the State Medicaid program, in-
19 cluding a plan to assure the health and welfare
20 of individuals participating in the MFP dem-
21 onstration project; and

22 (B) an assurance that the State will co-
23 operate in carrying out activities under sub-
24 section (f) to develop and implement continuous
25 quality assurance and quality improvement sys-

1 tems for home and community-based long-term
2 care services.

3 (12) OPTIONAL PROGRAM FOR SELF-DIRECTED
4 SERVICES.—If the State elects to provide for any
5 home and community-based long-term care services
6 as self-directed services (as defined in subsection
7 (b)(8)) under the MFP demonstration project, the
8 application shall provide the following:

9 (A) MEETING REQUIREMENTS.—A descrip-
10 tion of how the project will meet the applicable
11 requirements of such subsection for the provi-
12 sion of self-directed services.

13 (B) VOLUNTARY ELECTION.—A description
14 of how eligible individuals will be provided with
15 the opportunity to make an informed election to
16 receive self-directed services under the project
17 and after the end of the project.

18 (C) STATE SUPPORT IN SERVICE PLAN DE-
19 VELOPMENT.—Satisfactory assurances that the
20 State will provide support to eligible individuals
21 who self-direct in developing and implementing
22 their service plans.

23 (D) OVERSIGHT OF RECEIPT OF SERV-
24 ICES.—Satisfactory assurances that the State
25 will provide oversight of eligible individual's re-

1 ceipt of such self-directed services, including
2 steps to assure the quality of services provided
3 and that the provision of such services are con-
4 sistent with the service plan under such sub-
5 section.

6 Nothing in this section shall be construed as requir-
7 ing a State to make an election under the project to
8 provide for home and community-based long-term
9 care services as self-directed services, or as requiring
10 an individual to elect to receive self-directed services
11 under the project.

12 (13) REPORTS AND EVALUATION.—The applica-
13 tion shall provide that—

14 (A) the State will furnish to the Secretary
15 such reports concerning the MFP demonstra-
16 tion project, on such timetable, in such uniform
17 format, and containing such information as the
18 Secretary may require, as will allow for reliable
19 comparisons of MFP demonstration projects
20 across States; and

21 (B) the State will participate in and co-
22 operate with the evaluation of the MFP dem-
23 onstration project.

24 (d) SECRETARY'S AWARD OF COMPETITIVE
25 GRANTS.—

1 (1) IN GENERAL.—The Secretary shall award
2 grants under this section on a competitive basis to
3 States selected from among those with applications
4 meeting the requirements of subsection (c), in ac-
5 cordance with the provisions of this subsection.

6 (2) SELECTION AND MODIFICATION OF STATE
7 APPLICATIONS.—In selecting State applications for
8 the awarding of such a grant, the Secretary—

9 (A) shall take into consideration the man-
10 ner in which, and extent to which, the State
11 proposes to achieve the objectives specified in
12 subsection (a);

13 (B) shall seek to achieve an appropriate
14 national balance in the numbers of eligible indi-
15 viduals, within different target groups of eligi-
16 ble individuals, who are assisted to transition to
17 qualified residences under MFP demonstration
18 projects, and in the geographic distribution of
19 States operating MFP demonstration projects;

20 (C) shall give preference to State applica-
21 tions proposing—

22 (i) to provide transition assistance to
23 eligible individuals within multiple target
24 groups; and

1 (ii) to provide eligible individuals with
2 the opportunity to receive home and com-
3 munity-based long-term care services as
4 self-directed services, as defined in sub-
5 section (b)(8); and

6 (D) shall take such objectives into consid-
7 eration in setting the annual amounts of State
8 grant awards under this section.

9 (3) WAIVER AUTHORITY.—The Secretary is au-
10 thorized to waive the following provisions of title
11 XIX of the Social Security Act, to the extent nec-
12 essary to enable a State initiative to meet the re-
13 quirements and accomplish the purposes of this sec-
14 tion:

15 (A) STATEWIDENESS.—Section
16 1902(a)(1), in order to permit implementation
17 of a State initiative in a selected area or areas
18 of the State.

19 (B) COMPARABILITY.—Section
20 1902(a)(10)(B), in order to permit a State ini-
21 tiative to assist a selected category or categories
22 of individuals described in subsection (b)(2)(A).

23 (C) INCOME AND RESOURCES ELIGI-
24 BILITY.—Section 1902(a)(10)(C)(i)(III), in
25 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-

1 section (c)(11) to assure the health and welfare
2 of MFP demonstration project participants.

3 (e) PAYMENTS TO STATES; CARRYOVER OF UNUSED
4 GRANT AMOUNTS.—

5 (1) PAYMENTS.—For each calendar quarter in
6 a fiscal year during the period a State is awarded
7 a grant under subsection (d), the Secretary shall pay
8 to the State from its grant award for such fiscal
9 year an amount equal to the lesser of—

10 (A) 90 percent of the amount of qualified
11 expenditures made during such quarter; or

12 (B) the total amount remaining in such
13 grant award for such fiscal year (taking into
14 account the application of paragraph (2)).

15 (2) CARRYOVER OF UNUSED AMOUNTS.—Any
16 portion of a State grant award for a fiscal year
17 under this section remaining at the end of such fis-
18 cal year shall remain available to the State for the
19 next 4 fiscal years, subject to paragraph (3).

20 (3) REAWARDING OF CERTAIN UNUSED
21 AMOUNTS.—In the case of a State that the Sec-
22 retary determines pursuant to subsection (d)(4) has
23 failed to meet the conditions for continuation of a
24 MFP demonstration project under this section in a
25 succeeding year or years, the Secretary shall rescind

1 the grant awards for such succeeding year or years,
2 together with any unspent portion of an award for
3 prior years, and shall add such amounts to the ap-
4 propriation for the immediately succeeding fiscal
5 year for grants under this section.

6 (4) PREVENTING DUPLICATION OF PAYMENT.—

7 The payment under a MFP demonstration project
8 with respect to qualified expenditures shall be in lieu
9 of any payment with respect to such expenditures
10 that could otherwise be paid under Medicaid, includ-
11 ing under section 1903(a) of the Social Security Act.
12 Nothing in the previous sentence shall be construed
13 as preventing the payment under Medicaid for such
14 expenditures in a grant year after amounts available
15 to pay for such expenditures under the MFP dem-
16 onstration project have been exhausted.

17 (f) QUALITY ASSURANCE AND IMPROVEMENT; TECH-
18 NICAL ASSISTANCE; OVERSIGHT.—

19 (1) IN GENERAL.—The Secretary, either di-
20 rectly or by grant or contract, shall provide for tech-
21 nical assistance to, and oversight of, States for pur-
22 poses of upgrading quality assurance and quality im-
23 provement systems under Medicaid home and com-
24 munity-based waivers, including—

1 (A) dissemination of information on prom-
2 ising practices;

3 (B) guidance on system design elements
4 addressing the unique needs of participating
5 beneficiaries;

6 (C) ongoing consultation on quality, in-
7 cluding assistance in developing necessary tools,
8 resources, and monitoring systems; and

9 (D) guidance on remedying programmatic
10 and systemic problems.

11 (2) FUNDING.—From the amounts appro-
12 priated under subsection (h)(1) for the portion of
13 fiscal year 2009 that begins on January 1, 2009,
14 and ends on September 30, 2009, and for fiscal year
15 2010, not more than \$2,400,000 shall be available
16 to the Secretary to carry out this subsection during
17 the period that begins on January 1, 2009, and ends
18 on September 30, 2013.

19 (g) RESEARCH AND EVALUATION.—

20 (1) IN GENERAL.—The Secretary, directly or
21 through grant or contract, shall provide for research
22 on, and a national evaluation of, the program under
23 this section, including assistance to the Secretary in
24 preparing the final report required under paragraph
25 (2). The evaluation shall include an analysis of pro-

1 jected and actual savings related to the transition of
2 individuals to qualified residences in each State con-
3 ducting an MFP demonstration project.

4 (2) FINAL REPORT.—The Secretary shall make
5 a final report to the President and Congress, not
6 later than September 30, 2013, reflecting the eval-
7 uation described in paragraph (1) and providing
8 findings and conclusions on the conduct and effec-
9 tiveness of MFP demonstration projects.

10 (3) FUNDING.—From the amounts appro-
11 priated under subsection (h)(1) for each of fiscal
12 years 2010 through 2013, not more than \$1,100,000
13 per year shall be available to the Secretary to carry
14 out this subsection.

15 (h) APPROPRIATIONS.—

16 (1) IN GENERAL.—There are appropriated,
17 from any funds in the Treasury not otherwise appro-
18 priated, for grants to carry out this section—

19 (A) \$250,000,000 for the portion of fiscal
20 year 2009 beginning on January 1, 2009, and
21 ending on September 30, 2009;

22 (B) \$300,000,000 for fiscal year 2010;

23 (C) \$350,000,000 for fiscal year 2011;

24 (D) \$400,000,000 for fiscal year 2012;

25 and

1 (E) \$450,000,000 for fiscal year 2013.

2 (2) AVAILABILITY.—Amounts made available
3 under paragraph (1) for a fiscal year shall remain
4 available for the awarding of grants to States by not
5 later than September 30, 2013.

6 **CHAPTER 6—OPTION FOR HURRICANE**
7 **KATRINA DISASTER STATES TO DELAY**
8 **APPLICATION**

9 **SEC. 6071. OPTION FOR HURRICANE KATRINA DISASTER**
10 **STATES TO DELAY APPLICATION.**

11 Notwithstanding any provision of this subtitle, or any
12 amendment made by this subtitle, the State of Louisiana,
13 Mississippi, or Alabama may elect to not have the provi-
14 sions of this subtitle, or of any amendment made by this
15 subtitle, apply with respect to the State during any period
16 for which a major disaster declared in accordance with
17 section 401 of the Robert T. Stafford Disaster Relief and
18 Emergency Assistance Act (42 U.S.C. 5170) with respect
19 to a parish, in the case of Louisiana, or a county, in the
20 case of Mississippi or Alabama, as a result of Hurricane
21 Katrina is in effect.

22 **Subtitle B—Medicare**

23 **SEC. 6101. IMPROVEMENTS TO THE MEDICARE-DEPENDENT**
24 **HOSPITAL (MDH) PROGRAM.**

25 (a) 5-YEAR EXTENSION.—

1 (1) EXTENSION OF PAYMENT METHOD-
2 OLOGY.—Section 1886(d)(5)(G) (42 U.S.C.
3 1395ww(d)(5)(G)) is amended—

4 (A) in clause (i), by striking “October 1,
5 2006” and inserting “October 1, 2011”; and

6 (B) in clause (ii)(II)—

7 (i) by striking “October 1, 2006” and
8 inserting “October 1, 2011”; and

9 (ii) by inserting “or for discharges in
10 the fiscal year” after “for the cost report-
11 ing period”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) EXTENSION OF TARGET AMOUNT.—
14 Section 1886(b)(3)(D) (42 U.S.C.
15 1395ww(b)(3)(D)) is amended—

16 (i) in the matter preceding clause

17 (i)—

18 (I) by striking “beginning” and
19 inserting “occurring”; and

20 (II) by striking “October 1,
21 2006” and inserting “October 1,
22 2011”; and

23 (ii) in clause (iv), by striking
24 “through fiscal year 2005” and inserting
25 “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.

1 “(ii) This subparagraph shall only apply to a hospital
2 if the substitution described in clause (i)(I) results in an
3 increase in the target amount under subparagraph (D) for
4 the hospital.”.

5 (c) ENHANCED PAYMENT FOR AMOUNT BY WHICH
6 THE TARGET EXCEEDS THE PPS RATE.—Section
7 1886(d)(5)(G)(ii)(II) (42 U.S.C.
8 1395ww(d)(5)(G)(iv)(II)) is amended by inserting “(or 75
9 percent in the case of discharges occurring on or after Oc-
10 tober 1, 2006)” after “50 percent”.

11 (d) ENHANCED DISPROPORTIONATE SHARE HOS-
12 PITAL (DSH) TREATMENT FOR MEDICARE DEPENDENT
13 HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) (42 U.S.C.
14 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting “or, in
15 the case of discharges occurring on or after October 1,
16 2006, as a medicare-dependent, small rural hospital under
17 subparagraph (G)(iv)” before the period at the end.

18 **SEC. 6102. REDUCTION IN PAYMENTS TO SKILLED NURSING**

19 **FACILITIES FOR BAD DEBT.**

20 (a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C.
21 1395x(v)(1)) is amended by adding at the end the fol-
22 lowing new subparagraph:

23 “(V) In determining such reasonable costs for skilled
24 nursing facilities with respect to services furnished on or
25 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-

1 lished in the Federal Register on May 7, 2004,
2 entitled “Medicare Program; Final Rule;
3 Changes to the Criteria for Being Classified as
4 an Inpatient Rehabilitation Facility” (69 Fed.
5 Reg. 25752)), that is greater than the 50 per-
6 cent compliance threshold that became effective
7 on July 1, 2004; or

8 (B) change the designation of an inpatient
9 rehabilitation facility that is in compliance with
10 such 50 percent threshold.

11 (2) RETROACTIVE STATUS AS AN INPATIENT
12 REHABILITATION FACILITY; PAYMENTS; EXPEDITED
13 REVIEW.—The Secretary of Health and Human
14 Services shall establish procedures for—

15 (A) making any necessary retroactive ad-
16 justment to restore the status of a facility as an
17 inpatient rehabilitation facility as a result of
18 subsection (a); and

19 (B) making any necessary payments to in-
20 patient rehabilitation facilities based on such
21 adjustment for discharges occurring on or after
22 July 1, 2005, and before the date of enactment
23 of this Act.

24 (b) SPECIAL RULE.—In the case of a hospital or unit
25 of a hospital that failed to meet the 50 percent compliance

1 threshold described in subsection (a)(1)(A) with respect
2 to the first cost reporting period of the hospital or unit
3 that began on or after July 1, 2004, the following rules
4 shall apply:

5 (1) Such hospital or unit shall be deemed to
6 meet such 50 percent threshold for purposes of sub-
7 section (a).

8 (2) The Secretary shall examine all the claims
9 of the hospital or unit under title XVIII of the So-
10 cial Security Act submitted during the 6-month pe-
11 riod beginning after the end of such first cost re-
12 porting period.

13 (3) If the Secretary determines after such re-
14 view that the hospital or unit is still not in compli-
15 ance with such 50 percent compliance threshold—

16 (A) the deemed status of the hospital or
17 unit under paragraph (1) shall be revoked ret-
18 roactive to the beginning of such 6-month pe-
19 riod; and

20 (B) the Secretary shall provide for the col-
21 lection of any necessary overpayments by rea-
22 son of the revocation under subparagraph (A).

23 (c) STUDY AND REPORT BY THE HHS INSPECTOR
24 GENERAL.—

25 (1) STUDY.—

1 (A) IN GENERAL.—The Inspector General
2 of the Department of Health and Human Serv-
3 ices shall conduct a study of hospitals and units
4 of hospitals that—

5 (i) are designated as inpatient reha-
6 bilitation facilities under title XVIII of the
7 Social Security Act; and

8 (ii) would not be so designated if this
9 section had not been enacted because the
10 hospital or unit has a compliance rate that
11 is greater than the 50 percent compliance
12 threshold described in subsection (a)(1)(A)
13 but is less than the 60 percent compliance
14 threshold that would have become effective
15 on July 1, 2005, but for this section.

16 (B) REQUIREMENT.—In conducting the
17 study under subparagraph (A), the Inspector
18 General shall analyze the types of patients the
19 hospitals and units are treating and issues re-
20 lating to the medical conditions of such patients
21 that do not meet the medical requirements for
22 determining compliance with such threshold.

23 (2) REPORT.—Not later than January 1, 2007,
24 the Inspector General shall submit to Congress and
25 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.

1 (B) PERIODIC REPORTS.—The Rehabilita-
2 tion Advisory Council shall provide Congress
3 and the Secretary with periodic reports that
4 summarize—

5 (i) the Council’s activities; and

6 (ii) any recommendations for legisla-
7 tion or administrative action the Council
8 considers to be appropriate.

9 (4) TERMINATION.—The Rehabilitation
10 Advisory Council shall terminate on September
11 30, 2010.

12 **SEC. 6104. PROHIBITION ON PHYSICIAN SELF REFERRALS**
13 **TO PHYSICIAN OWNED, LIMITED SERVICE**
14 **HOSPITALS.**

15 (a) PROHIBITION.—Section 1877(d) (42 U.S.C.
16 1395nn(d)) is amended in each of paragraphs (2)(B) and
17 (3)(B) by striking “effective for the 18-month period be-
18 ginning on the date of enactment of the Medicare Pre-
19 scription Drug, Improvement, and Modernization Act of
20 2003” and inserting “on and after December 8, 2003”.

21 (b) REVISIONS TO THE REQUIREMENTS TO QUALIFY
22 FOR THE EXCEPTION TO THE DEFINITION OF SPECIALTY
23 HOSPITAL.—Section 1877(h)(7)(B) (42 U.S.C.
24 1395nn(h)(7)(B)) is amended—

1 (1) by redesignating clauses (iii), (iv), and (v)
2 as clauses (vi), (vii), and (viii), respectively;

3 (2) by inserting after clause (ii) the following
4 new clauses:

5 “(iii) for which the percent of invest-
6 ment in the hospital by physician investors
7 at any time on or after June 8, 2005, is
8 no greater than the percent of such invest-
9 ment by physician investors as of such
10 date;

11 “(iv) for which the percent of invest-
12 ment in the hospital by any physician in-
13 vestor at any time on or after June 8,
14 2005, is no greater than the percent of
15 such investment by such physician as of
16 such date;

17 “(v) for which the number of oper-
18 ating rooms at the hospital at any time on
19 or after June 8, 2005, is no greater than
20 the number of such rooms as of such
21 date;” and

22 (3) by striking clause (vii), as so redesignated,
23 and inserting the following:

24 “(vii) for which—

1 “(I) during the period beginning
2 on December 8, 2003, and ending on
3 June 7, 2005, any increase in the
4 number of beds occurs only in the fa-
5 cilities on the main campus of the
6 hospital and does not exceed 50 per-
7 cent of the number of beds in the hos-
8 pital as of November 18, 2003, or 5
9 beds, whichever is greater; and

10 “(II) the number of beds at the
11 hospital at any time on or after June
12 8, 2005, is no greater than the num-
13 ber of such beds as of such date;
14 and”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on June 8, 2005.

17 **SEC. 6105. MINIMUM UPDATE FOR PHYSICIANS’ SERVICES**
18 **FOR 2006.**

19 (a) MINIMUM UPDATE FOR 2006.—Section 1848(d)
20 (42 U.S.C. 1395w-4(d)), as amended by section 6110(c),
21 is amended by adding at the end the following new para-
22 graph:

23 “(7) UPDATE FOR 2006.—The update to the
24 single conversion factor established in paragraph
25 (1)(C) for 2006 shall be not less than 1 percent.”.

1 (b) CONFORMING AMENDMENT.—Section
 2 1848(d)(4)(B) (42 U.S.C. 1395w-4(d)(4)(B)) is amended,
 3 in the matter preceding clause (i), by striking “paragraph
 4 (5)” and inserting “paragraphs (5) and (7)”.

5 (c) NOT TREATED AS CHANGE IN LAW AND REGULA-
 6 TION IN SUSTAINABLE GROWTH RATE DETERMINA-
 7 TION.—The amendments made by this section shall not
 8 be treated as a change in law for purposes of applying
 9 section 1848(f)(2)(D) of the Social Security Act (42
 10 U.S.C. 1395w-4(f)(2)(D)).

11 **SEC. 6106. ONE-YEAR EXTENSION OF HOLD HARMLESS PRO-**
 12 **VISIONS FOR SMALL RURAL HOSPITALS AND**
 13 **SOLE COMMUNITY HOSPITALS UNDER THE**
 14 **PROSPECTIVE PAYMENT SYSTEM FOR HOS-**
 15 **PITAL OUTPATIENT DEPARTMENT SERVICES.**

16 Section 1833(t)(7)(D)(i) (42 U.S.C.
 17 1395l(t)(7)(D)(i)) is amended by striking “January 1,
 18 2006” and inserting “January 1, 2007”.

19 **SEC. 6107. UPDATE TO THE COMPOSITE RATE COMPONENT**
 20 **OF THE BASIC CASE-MIX ADJUSTED PRO-**
 21 **SPECTIVE PAYMENT SYSTEM FOR DIALYSIS**
 22 **SERVICES.**

23 Section 1881(b)(12) (42 U.S.C. 1395rr(b)(12)) is
 24 amended—

1 (1) in subparagraph (F), in the flush matter at
2 the end, by striking “Nothing” and inserting “Ex-
3 cept as provided in subparagraph (G), nothing”;

4 (2) by redesignating subparagraph (G) as sub-
5 paragraph (H); and

6 (3) by inserting after subparagraph (F) the fol-
7 lowing new subparagraph:

8 “(G) The Secretary shall increase the amount of the
9 composite rate component of the basic case-mix adjusted
10 system under subparagraph (B) for dialysis services fur-
11 nished on or after January 1, 2006, by 1.6 percent above
12 the amount of such composite rate component for such
13 services furnished on December 31, 2005.”.

14 **SEC. 6108. ONE-YEAR EXTENSION OF MORATORIUM ON**
15 **THERAPY CAPS.**

16 Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is
17 amended by striking “and 2005” and inserting “2005,
18 and 2006”.

19 **SEC. 6109. TRANSFER OF TITLE OF CERTAIN DME TO PA-**
20 **TIENT AFTER 13-MONTH RENTAL.**

21 (a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C.
22 1395m(a)(7)(A)) is amended to read as follows:

23 “(A) PAYMENT.—In the case of an item of
24 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.—

1 “(I) TRANSFER OF TITLE.—On
2 the first day that begins after the
3 13th continuous month during which
4 payment is made for the rental of an
5 item under clause (i), the supplier of
6 the item shall transfer title to the
7 item to the individual.

8 “(II) MAINTENANCE AND SERV-
9 ICING.—After the supplier transfers
10 title to the item under subclause (I),
11 maintenance and servicing payments
12 shall, if the Secretary determines such
13 payments are reasonable and nec-
14 essary, be made (for parts and labor
15 not covered by the supplier’s or manu-
16 facturer’s warranty, as determined by
17 the Secretary to be appropriate for
18 the particular type of durable medical
19 equipment), and such payments shall
20 be in an amount determined to be ap-
21 propriate by the Secretary.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to items furnished for which the
24 first rental month occurs on or after January 1, 2006.

1 **SEC. 6110. ESTABLISHMENT OF MEDICARE VALUE-BASED**
2 **PURCHASING PROGRAMS.**

3 (a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et
4 seq.) is amended—

5 (1) by redesignating part E as part F; and

6 (2) by inserting after part D the following new
7 part:

8 “PART E—VALUE-BASED PURCHASING
9 “QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED
10 PURCHASING PROGRAMS

11 “SEC. 1860E-1. (a) ESTABLISHMENT.—

12 “(1) IN GENERAL.—The Secretary shall develop
13 quality measurement systems in accordance with
14 subsections (b), (c), (d), and (e), for purposes of
15 providing value-based payments to—

16 “(A) hospitals pursuant to section 1860E-
17 2;

18 “(B) physicians and practitioners pursuant
19 to section 1860E-3;

20 “(C) plans pursuant to section 1860E-4;

21 “(D) end stage renal disease providers and
22 facilities pursuant to section 1860E-5; and

23 “(E) home health agencies pursuant to
24 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;

1 “(vi) in the case of the system that is
2 used to provide value-based payments to
3 hospitals under section 1860E–2, by not
4 later than January 1, 2008, at least 5
5 measures that take into account the unique
6 characteristics of small hospitals located in
7 rural areas and frontier areas are included;
8 and

9 “(vii) measures that assess the quality
10 of care furnished to frail individuals over
11 the age of 75 and to individuals with mul-
12 tiple complex chronic conditions are in-
13 cluded.

14 “(C) REQUIREMENT FOR COLLECTION OF
15 DATA ON A MEASURE FOR 1 YEAR PRIOR TO
16 USE UNDER THE SYSTEMS.—Data on any
17 measure selected by the Secretary under sub-
18 paragraph (A) must be collected by the Sec-
19 retary for at least a 12-month period before
20 such measure may be used to determine wheth-
21 er a provider receives a value-based payment
22 under a program described in subsection (a)(1).

23 “(D) AUTHORITY TO VARY MEASURES.—
24 The Secretary may vary the measures selected
25 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;

1 “(iv) is consistent with data standards
2 and certification processes recommended
3 by the Secretary;

4 “(v) allows for the reporting of quality
5 measures; and

6 “(vi) includes other features deter-
7 mined appropriate by the Secretary.

8 “(2) WEIGHTS OF MEASURES.—The Secretary
9 shall assign weights to the measures used by the
10 Secretary under each system. If the Secretary deter-
11 mines appropriate, in assigning the weights under
12 the preceding sentence, some measures may be
13 weighted more heavily than other measures.

14 “(3) RISK ADJUSTMENT.—The Secretary shall
15 establish procedures, as appropriate, to control for
16 differences in beneficiary health status and bene-
17 ficiary characteristics. To the extent feasible, such
18 procedures may be based on existing models for con-
19 trolling for such differences.

20 “(4) MAINTENANCE.—

21 “(A) IN GENERAL.—The Secretary shall,
22 as determined appropriate, but not more often
23 than once each 12-month period, review and re-
24 vise each system, including through—

1 “(i) the refinement of measures under
2 the systems and the retirement of existing
3 outdated measures under the system;

4 “(ii) the refinement of the weights as-
5 signed to measures under the system; and

6 “(iii) the refinement of the risk ad-
7 justment procedures established pursuant
8 to paragraph (3) under the system.

9 “(B) REVISION SHALL ALLOW FOR COM-
10 PARISON OF DATA.—Each revision under sub-
11 paragraph (A) of a quality measurement system
12 shall allow for the comparison of data from one
13 year to the next for purposes of providing
14 value-based payments under the programs de-
15 scribed in subsection (a)(1).

16 “(5) USE OF MOST RECENT QUALITY DATA.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the Secretary shall use the
19 most recent quality data with respect to the
20 provider involved that is available to the Sec-
21 retary.

22 “(B) INSUFFICIENT DATA DUE TO LOW
23 VOLUME.—If the Secretary determines that
24 there is insufficient data with respect to a
25 measure or measures because of a low number

1 of services provided, the Secretary may aggre-
2 gate data across more than 1 fiscal or calendar
3 year, as the case may be.

4 “(c) REQUIREMENTS FOR DEVELOPING AND RE-
5 VIEWING AND REVISING THE SYSTEMS.—In developing
6 and reviewing and revising each quality measurement sys-
7 tem under this section, the Secretary shall—

8 “(1) consult with, and take into account the
9 recommendations of, the entity that the Secretary
10 has an arrangement with under subsection (e);

11 “(2) consult with provider-based groups, clinical
12 specialty societies, and certification boards;

13 “(3) take into account existing quality measure-
14 ment systems that have been developed through a
15 rigorous process of validation and with the involve-
16 ment of entities and persons described in subsection
17 (e)(2)(B); and

18 “(4) take into account—

19 “(A) each of the reports by the Medicare
20 Payment Advisory Commission that are re-
21 quired under section 1860E–3(a)(1);

22 “(B) the results of appropriate studies, re-
23 ports, and demonstration programs; and

24 “(C) the report by the Institute of Medi-
25 cine 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 items 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.

1 “(D) The entity does not charge a fee for
2 membership for participation in the work of the
3 entity related to the arrangement with the Sec-
4 retary under paragraph (1). If the entity does
5 require a fee for membership for participation
6 in other functions of the entity, there shall be
7 no linkage between such fee and participation
8 in the work of the entity related to such ar-
9 rangement with the Secretary.

10 “(E) The entity—

11 “(i) permits members described in
12 subparagraph (B) to vote on matters of
13 the entity related to the arrangement with
14 the Secretary under paragraph (1); and

15 “(ii) ensures that such members have
16 an equal vote on such matters.

17 “(F) With respect to matters related to the
18 arrangement with the Secretary under para-
19 graph (1), the entity conducts its business in an
20 open and transparent manner and provides the
21 opportunity for public comment.

22 “(G) The entity operates as a voluntary
23 consensus standards setting organization as de-
24 fined for purposes of section 12(d) of the Na-
25 tional Technology Transfer and Advancement

1 Act of 1995 (Public Law 104–113) and Office
2 of Management and Budget Revised Circular
3 A–119 (published in the Federal Register on
4 February 10, 1998).

5 “(3) AUTHORIZATION OF APPROPRIATIONS.—
6 For the purpose of carrying out the provisions of
7 this subsection, there are authorized to be appro-
8 priated—

9 “(A) for each of the fiscal years 2006 and
10 2007, \$3,000,000; and

11 “(B) for fiscal year 2008 and each subse-
12 quent fiscal year, an amount equal to the sum
13 of—

14 “(i) \$3,000,000; and

15 “(ii) such amount multiplied by the
16 percentage (if any) by which the average of
17 the Consumer Price Index for all urban
18 consumers (United States city average) for
19 the 12-month period ending with June of
20 the calendar year in which such fiscal year
21 begins exceeds such average for the 12-
22 month period ending with June 2006.

23 “PPS HOSPITAL VALUE-BASED PURCHASING PROGRAM

24 “SEC. 1860E–2. (a) PROGRAM.—

25 “(1) IN GENERAL.—The Secretary shall estab-
26 lish a program under which value-based payments

1 are provided each fiscal year to hospitals that dem-
2 onstrate the provision of high quality health care to
3 individuals who are entitled to benefits under part A
4 and are inpatients of the hospital.

5 “(2) PROGRAM TO BEGIN IN FISCAL YEAR
6 2007.—The Secretary shall establish the program
7 under this section so that value-based payments de-
8 scribed in subsection (b) are made with respect to
9 fiscal year 2007 and each subsequent fiscal year.

10 “(3) APPLICABILITY OF PROGRAM TO HOS-
11 PITALS.—For purposes of this section, the term
12 ‘hospital’ means a subsection (d) hospital (as defined
13 in section 1886(d)(1)(B)).

14 “(b) VALUE-BASED PAYMENTS.—

15 “(1) IN GENERAL.—Subject to paragraph (4),
16 the Secretary shall make a value-based payment to
17 a hospital with respect to a fiscal year if the Sec-
18 retary determines that the quality of the care pro-
19 vided in that year to individuals who are entitled to
20 benefits under part A and are inpatients of the hos-
21 pital—

22 “(A) has substantially improved (as deter-
23 mined by the Secretary) over the prior year; or

24 “(B) exceeds a threshold established by the
25 Secretary.

1 “(2) USE OF SYSTEM.—In determining which
2 hospitals qualify for a value-based payment under
3 paragraph (1), the Secretary shall use the quality
4 measurement system developed for this section pur-
5 suant to section 1860E–1(a).

6 “(3) DETERMINATION OF AMOUNT OF AWARD
7 AND ALLOCATION OF AWARDS.—

8 “(A) IN GENERAL.—The Secretary shall
9 determine—

10 “(i) the amount of a value-based pay-
11 ment under paragraph (1) provided to a
12 hospital; and

13 “(ii) subject to subparagraph (B), the
14 allocation of the total amount available
15 under subsection (d) for value-based pay-
16 ments for any fiscal year between pay-
17 ments with respect to hospitals that meet
18 the requirement under subparagraph (A)
19 of paragraph (1) and hospitals that meet
20 the requirement under subparagraph (B)
21 of such paragraph.

22 “(B) REQUIREMENTS REGARDING THE
23 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
24 BASED PAYMENTS FOR HOSPITALS EXCEEDING

1 A THRESHOLD.—The Secretary shall ensure
2 that—

3 “(i) a majority of the total amount
4 available under subsection (d) for value-
5 based payments for any fiscal year is pro-
6 vided to hospitals that are receiving such
7 payments because they meet the require-
8 ment under paragraph (1)(B); and

9 “(ii) with respect to fiscal year 2008
10 and each subsequent fiscal year, the per-
11 centage of the total amount available
12 under subsection (d) for value-based pay-
13 ments for any fiscal year that is used to
14 make payments to hospitals that meet such
15 requirement is greater than such percent-
16 age in the previous fiscal year.

17 “(4) REQUIREMENTS.—

18 “(A) REQUIRED SUBMISSION OF DATA.—
19 In order for a hospital to be eligible for a value-
20 based payment for a fiscal year, the hospital
21 must have complied with the requirements
22 under section 1886(b)(3)(B)(viii)(II) with re-
23 spect to that fiscal year.

24 “(B) ATTESTATION REGARDING DATA.—In
25 order for a hospital to be eligible for a value-

1 based payment for a fiscal year, the hospital
2 must have provided the Secretary (under proce-
3 dures established by the Secretary) with an at-
4 testation that the data submitted under section
5 1886(b)(3)(B)(viii)(II) for the fiscal year is
6 complete and accurate.

7 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-
8 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE
9 FUNDING.—The Secretary shall establish payment
10 amounts under paragraph (3)(A) so that, as esti-
11 mated by the Secretary, the total amount of value-
12 based payments made in a fiscal year under para-
13 graph (1) is equal to the total amount available
14 under subsection (d) for such payments for the year.

15 “(6) PAYMENT METHODS AND TIMING OF PAY-
16 MENTS.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), the payment of value-based pay-
19 ments under paragraph (1) shall be based on
20 such a method as the Secretary determines ap-
21 propriate.

22 “(B) TIMING.—The Secretary shall ensure
23 that value-based payments under paragraph (1)
24 with respect to a fiscal year are made by not
25 later than the close of the following fiscal year.

1 “(c) DESCRIPTION OF HOW HOSPITALS WOULD
2 HAVE FARED UNDER PROGRAM.—Not later than Janu-
3 ary 1, 2007, the Secretary shall provide each hospital with
4 a description of the Secretary’s estimate of how payments
5 to the hospital under this title would have been affected
6 with respect to items and services furnished during a pe-
7 riod, as determined by the Secretary, if the program under
8 this section (and the amendments made by paragraphs (1)
9 and (2) of section 6110(b) of the Deficit Reduction Omni-
10 bus Reconciliation Act of 2005) had been in effect with
11 respect to that period.

12 “(d) FUNDING.—

13 “(1) AMOUNT.—The amount available for
14 value-based payments under this section with respect
15 to a fiscal year shall be equal to the amount of the
16 reduction in expenditures under the Federal Hos-
17 pital Insurance Trust Fund under section 1817 in
18 the year as a result of the amendments made by sec-
19 tion 6110(b)(2) of the Deficit Reduction Omnibus
20 Reconciliation Act of 2005, as estimated by the Sec-
21 retary.

22 “(2) PAYMENTS FROM TRUST FUND.—Pay-
23 ments to hospitals under this section shall be made
24 from the Federal Hospital Insurance Trust Fund.

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)).

1 “(2) PROGRAM TO BEGIN IN 2009.—The Sec-
2 retary shall establish the program under this section
3 so that value-based payments described in subsection
4 (b) are made with respect to 2009 and each subse-
5 quent year.

6 “(3) DEFINITION OF PHYSICIAN AND PRACTI-
7 TIONER.—In this section:

8 “(A) PHYSICIAN.—The term ‘physician’
9 has the meaning given that term in section
10 1861(r).

11 “(B) PRACTITIONER.—The term ‘practi-
12 tioner’ means—

13 “(i) a practitioner described in section
14 1842(b)(18)(C);

15 “(ii) a physical therapist (as described
16 in section 1861(p));

17 “(iii) an occupational therapist (as so
18 described); and

19 “(iv) a qualified speech-language pa-
20 thologist (as defined in section
21 1861(ll)(3)(A)).

22 “(4) IDENTIFICATION OF PHYSICIANS AND
23 PRACTITIONERS.—For purposes of applying this sec-
24 tion and paragraphs (4)(G) and (6) of section
25 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-

1 tion 1860E–1(a) with respect to the qual-
2 ity of the care provided by the physician or
3 practitioner; and

4 “ (ii) the comparative utilization sys-
5 tem developed under subsection (c) with
6 respect to the efficiency and appropriate-
7 ness of such care.

8 “(3) DETERMINATION OF AMOUNT OF AWARD
9 AND ALLOCATION OF AWARDS.—

10 “(A) IN GENERAL.—The Secretary shall
11 determine—

12 “ (i) the amount of a value-based pay-
13 ment under paragraph (1) provided to a
14 physician or a practitioner; and

15 “ (ii) subject to subparagraph (B), the
16 allocation of the total amount available
17 under subsection (e) for value-based pay-
18 ments for any year between payments with
19 respect to physicians and practitioners that
20 meet the requirement under subparagraph
21 (A) of paragraph (1) and physicians and
22 practitioners that meet the requirement
23 under subparagraph (B) of such para-
24 graph.

1 “(B) REQUIREMENTS REGARDING THE
2 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
3 BASED PAYMENTS FOR PHYSICIANS AND PRAC-
4 TITIONERS EXCEEDING A THRESHOLD.—The
5 Secretary shall ensure that—

6 “(i) a majority of the total amount
7 available under subsection (e) for value-
8 based payments for any year is provided to
9 physicians and practitioners that are re-
10 ceiving such payments because they meet
11 the requirement under paragraph (1)(B);
12 and

13 “(ii) with respect to 2010 and each
14 subsequent year, the percentage of the
15 total amount available under subsection (e)
16 for value-based payments for any year that
17 is used to make payments to physicians
18 and practitioners that meet such require-
19 ment is greater than such percentage in
20 the previous year.

21 “(4) REQUIREMENTS.—

22 “(A) REQUIRED SUBMISSION OF DATA.—
23 In order for a physician or a practitioner to be
24 eligible for a value-based payment for a year,
25 the physician or practitioner must have com-

1 plied with the requirements under section
2 1848(d)(6)(B)(ii) with respect to that year.

3 “(B) ATTESTATION REGARDING DATA.—In
4 order for a physician or a practitioner to be eli-
5 gible for a value-based payment for a year, the
6 physician or practitioner must have provided
7 the Secretary (under procedures established by
8 the Secretary) with an attestation that the data
9 submitted under section 1848(d)(6)(B)(ii) with
10 respect to that year is complete and accurate.

11 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-
12 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE
13 FUNDING.—The Secretary shall establish payment
14 amounts under paragraph (3)(A) so that, as esti-
15 mated by the Secretary, the total amount of value-
16 based payments made in a year under paragraph (1)
17 is equal to the total amount available under sub-
18 section (e) for such payments for the year.

19 “(6) PAYMENT METHODS AND TIMING OF PAY-
20 MENTS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), the payment of value-based pay-
23 ments under paragraph (1) shall be based on
24 such a method as the Secretary determines ap-
25 propriate.

1 “(B) TIMING.—The Secretary shall ensure
2 that value-based payments under paragraph (1)
3 with respect to a year are made by not later
4 than December 31 of the subsequent year.

5 “(c) COMPARATIVE UTILIZATION SYSTEM.—

6 “(1) DEVELOPMENT.—The Secretary, in con-
7 sultation with relevant stakeholders, shall develop a
8 comparative utilization system for purposes of pro-
9 viding value-based payments under subsection (b).

10 “(2) MEASURES OF EFFICIENCY AND APPRO-
11 PRIATENESS OF CARE.—The comparative utilization
12 system developed under paragraph (1) shall measure
13 the efficiency and appropriateness of the care pro-
14 vided by a physician or practitioner.

15 “(3) REQUIREMENTS FOR SYSTEM.—Under the
16 comparative utilization system described in para-
17 graph (1), the Secretary shall do the following:

18 “(A) MEASURES.—The Secretary shall se-
19 lect measures of efficiency appropriateness to
20 be used by the Secretary under the system. The
21 Secretary may vary the measures selected under
22 the preceding sentence by the type or specialty
23 of the physician or practitioner. If the Secretary
24 varies the measures for providers under the pre-
25 ceding 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.

1 “(d) DESCRIPTION OF HOW PHYSICIANS AND PRAC-
2 TITIONERS WOULD HAVE FARED UNDER PROGRAM.—
3 Not later than March 1, 2009, the Secretary shall provide
4 each physician and practitioner with a description of the
5 Secretary’s estimate of how payments to the physician or
6 practitioner under this title would have been affected with
7 respect to items and services furnished during a period,
8 as determined by the Secretary, if the program under this
9 section (and the amendments made by paragraphs (1) and
10 (2) of section 6110(c) of the Deficit Reduction Omnibus
11 Reconciliation Act of 2005) had been in effect with respect
12 to that period.

13 “(e) FUNDING.—

14 “(1) AMOUNT.—The amount available for
15 value-based payments under this section with respect
16 to a year shall be equal to the amount of the reduc-
17 tion in expenditures under the Federal Supple-
18 mentary Medical Insurance Trust Fund under sec-
19 tion 1841 in the year as a result of the amendments
20 made by section 6110(c)(2) of the Deficit Reduction
21 Omnibus Reconciliation Act of 2005, as estimated
22 by the Secretary.

23 “(2) PAYMENTS FROM TRUST FUND.—Pay-
24 ments 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).

1 “(B) APPLICABILITY OF PROGRAM TO
2 MEDICARE ADVANTAGE REGIONAL AND LOCAL
3 PLANS.—For purposes of this section, the term
4 ‘Medicare Advantage plan’ shall include both
5 Medicare Advantage regional plans (as defined
6 in section 1859(b)(4)) and Medicare Advantage
7 local plans (as defined in section 1859(b)(5)).

8 “(C) APPLICABILITY OF PROGRAM TO REA-
9 SONABLE COST CONTRACTS.—Except for para-
10 graphs (5) and (6) of subsection (b), for pur-
11 poses of this section, the terms—

12 “(i) ‘Medicare Advantage organiza-
13 tion’ and ‘organization’ include an organi-
14 zation that is providing benefits under a
15 reasonable cost reimbursement contract
16 under section 1876(h); and

17 “(ii) ‘Medicare Advantage plan’ and
18 ‘plan’ include such a contract.

19 “(b) VALUE-BASED PAYMENTS.—

20 “(1) IN GENERAL.—Subject to paragraph (4),
21 the Secretary shall make value-based payments to
22 Medicare Advantage organizations with respect to
23 each Medicare Advantage plan offered by the organi-
24 zation during a year if the Secretary determines that
25 the quality of the care provided under the plan—

1 “(A) has substantially improved (as deter-
2 mined by the Secretary) over the prior year; or

3 “(B) exceeds a threshold established by the
4 Secretary.

5 “(2) USE OF SYSTEM.—In determining which
6 organizations offering Medicare Advantage plans
7 qualify for a value-based payment under paragraph
8 (1), the Secretary shall—

9 “(A) use the quality measurement system
10 developed for this section pursuant to section
11 1860E–1(a); and

12 “(B) ensure that awards are based on data
13 from a full 12-month period (or 24-month pe-
14 riod in the case of an award described in para-
15 graph (1)(A)), such periods determined without
16 regard to calendar year periods.

17 “(3) DETERMINATION OF AMOUNT OF AWARD
18 AND ALLOCATION OF AWARDS.—

19 “(A) IN GENERAL.—The Secretary shall
20 determine—

21 “(i) the amount of a value-based pay-
22 ment under paragraph (1) provided to an
23 organization with respect to a plan; and

24 “(ii) subject to subparagraph (B), the
25 allocation of the total amount available

1 under subsection (d) for value-based pay-
2 ments for any year between payments with
3 respect to plans that meet the requirement
4 under subparagraph (A) of paragraph (1)
5 and plans that meet the requirement under
6 subparagraph (B) of such paragraph.

7 “(B) REQUIREMENT REGARDING THE
8 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
9 BASED PAYMENTS FOR PLANS EXCEEDING A
10 THRESHOLD.—The Secretary shall ensure
11 that—

12 “(i) a majority of the total amount
13 available under subsection (d) for value-
14 based payments for any year is provided to
15 organizations, with respect to plans offered
16 by such organizations, that are receiving
17 such payments because they meet the re-
18 quirement under paragraph (1)(B); and

19 “(ii) with respect to 2010 and each
20 subsequent year, the percentage of the
21 total amount available under subsection (d)
22 for value-based payments for any year that
23 is used to make payments to organizations,
24 with respect to plans offered by such orga-
25 nizations, 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-

1 retary with an attestation that the program under
2 this section, including the payment adjustments
3 made by reason of the amendments made by section
4 6110(d)(2)(A) of the Deficit Reduction Omnibus
5 Reconciliation Act of 2005, had no effect on the in-
6 tegrity and actuarial soundness of the bid submitted
7 under section 1854 for the plan for the year.

8 “(7) TOTAL AMOUNT OF VALUE-BASED PAY-
9 MENTS EQUAL TO TOTAL AMOUNT OF REDUCTION IN
10 PAYMENTS.—The Secretary shall establish payment
11 amounts under paragraph (3)(A) so that, as esti-
12 mated by the Secretary, the total amount of value-
13 based payments made in a year under paragraph (1)
14 is equal to the total amount available under sub-
15 section (d) for such payments for the year.

16 “(8) PAYMENT METHODS AND TIMING OF PAY-
17 MENTS.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B), the payment of value-based pay-
20 ments under paragraph (1) shall be based on
21 such a method as the Secretary determines ap-
22 propriate.

23 “(B) TIMING.—The Secretary shall ensure
24 that value-based payments under paragraph (1)

1 with respect to a year are made by not later
2 than March 1 of the subsequent year.

3 “(c) DESCRIPTION OF HOW PLANS WOULD HAVE
4 FARED UNDER PROGRAM.—Not later than March 1,
5 2009, the Secretary shall provide each Medicare Advan-
6 tage organization offering a Medicare Advantage plan with
7 a description of the Secretary’s estimate of how payments
8 under this title to such organization with respect to the
9 plan for a period, as determined by the Secretary, would
10 have been affected if the program under this section (and
11 the amendments made by section 6110(d) of the Deficit
12 Reduction Omnibus Reconciliation Act of 2005) had been
13 in effect with respect to that period.

14 “(d) FUNDING.—

15 “(1) AMOUNT.—The amount available for
16 value-based payments under this section with respect
17 to a year shall be equal to the amount of the reduc-
18 tion in expenditures under the Federal Hospital In-
19 surance Trust Fund under section 1817 and the
20 Federal Supplementary Medical Insurance Trust
21 Fund under section 1841 in the year as a result of
22 the amendments made by section 6110(d)(2) of the
23 Deficit Reduction Omnibus Reconciliation Act of
24 2005, as estimated by the Secretary.

1 “(A) PEDIATRIC FACILITIES.—Any renal
2 dialysis facility at least 50 percent of whose pa-
3 tients are individuals under 18 years of age
4 shall not be included in the program under this
5 section.

6 “(B) PROVIDERS AND FACILITIES CUR-
7 RENTLY PARTICIPATING IN BUNDLED CASE-MIX
8 DEMONSTRATION NOT INCLUDED IN PRO-
9 GRAM.—Any provider of services or renal dialy-
10 sis facility that is currently participating in the
11 bundled case-mix adjusted payment system for
12 ESRD services demonstration project under
13 section 623(e) of the Medicare Prescription
14 Drug, Improvement, and Modernization Act of
15 2003 (Public Law 108–173) shall not be in-
16 cluded in the program under this section, but
17 only for so long as the provider or facility is so
18 participating.

19 “(b) VALUE-BASED PAYMENTS.—

20 “(1) IN GENERAL.—Subject to paragraph (4),
21 the Secretary shall make a value-based payment to
22 a provider of services or a renal dialysis facility with
23 respect to a year if the Secretary determines that
24 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-

1 ties that meet the requirement under sub-
2 paragraph (A) of paragraph (1) and pro-
3 viders and facilities that meet the require-
4 ment under subparagraph (B) of such
5 paragraph.

6 “(B) REQUIREMENT REGARDING AMOUNT
7 OF FUNDING AVAILABLE FOR VALUE-BASED
8 PAYMENTS FOR PROVIDERS AND FACILITIES
9 EXCEEDING A THRESHOLD.—The Secretary
10 shall ensure that—

11 “(i) a majority of the total amount
12 available under subsection (c) for value-
13 based payments for any year is provided to
14 providers of services and renal dialysis fa-
15 cilities that are receiving such payments
16 because they meet the requirement under
17 paragraph (1)(B); and

18 “(ii) with respect to 2009 and each
19 subsequent year, the percentage of the
20 total amount available under subsection (c)
21 for value-based payments for any year that
22 is used to make payments to providers and
23 facilities that meet such requirement is
24 greater than such percentage in the pre-
25 vious year.

1 “(C) ONLY VALUE-BASED PAYMENTS FOR
2 PROVIDERS AND FACILITIES EXCEEDING A
3 THRESHOLD IN 2007.—With respect to 2007,
4 the entire amount available under subsection (c)
5 for value-based payments for that year shall be
6 used to make payments to providers of services
7 and renal dialysis facilities that meet the re-
8 quirement under paragraph (1)(B).

9 “(4) REQUIREMENTS.—

10 “(A) REQUIRED SUBMISSION OF DATA.—

11 “(i) IN GENERAL.—In order for a pro-
12 vider of services or a renal dialysis facility
13 to be eligible for a value-based payment for
14 a year, the provider or facility must have
15 provided for the submission of data in ac-
16 cordance with clause (ii) with respect to
17 that year.

18 “(ii) SUBMISSION OF DATA.—For
19 2007 and each subsequent year, each pro-
20 vider of services and renal dialysis facility
21 that receives payments under paragraph
22 (12) shall submit to the Secretary such
23 data that the Secretary determines is ap-
24 propriate for the measurement of health
25 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.

1 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-
2 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE
3 FUNDING.—The Secretary shall establish payment
4 amounts under paragraph (3)(A) so that, as esti-
5 mated by the Secretary, the total amount of value-
6 based payments made in a year under paragraph (1)
7 is equal to the total amount available under sub-
8 section (c) for such payments for the year.

9 “(6) PAYMENT METHODS AND TIMING OF PAY-
10 MENTS.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the payment of value-based pay-
13 ments under paragraph (1) shall be based on
14 such a method as the Secretary determines ap-
15 propriate.

16 “(B) TIMING.—The Secretary shall ensure
17 that value-based payments under paragraph (1)
18 with respect to a year are made by not later
19 than December 31 of the subsequent year.

20 “(c) FUNDING.—

21 “(1) AMOUNT.—The amount available for
22 value-based payments under this section with respect
23 to a year shall be equal to the amount of the reduc-
24 tion in expenditures under the Federal Supple-
25 mentary Medical Insurance Trust Fund under sec-

1 “(1) IN GENERAL.—Subject to paragraph (4),
2 the Secretary shall make a value-based payment to
3 a home health agency with respect to a year if the
4 Secretary determines that the quality of the care
5 provided in that year by the agency to individuals
6 entitled to benefits under part A or enrolled under
7 part B—

8 “(A) has substantially improved (as deter-
9 mined by the Secretary) over the prior year; or

10 “(B) exceeds a threshold established by the
11 Secretary.

12 “(2) USE OF SYSTEM.—In determining which
13 home health agencies qualify for a value-based pay-
14 ment under paragraph (1), the Secretary shall use
15 the quality measurement system developed for this
16 section pursuant to section 1860E-1(a).

17 “(3) DETERMINATION OF AMOUNT OF AWARD
18 AND ALLOCATION OF AWARDS.—

19 “(A) IN GENERAL.—The Secretary shall
20 determine—

21 “(i) the amount of a value-based pay-
22 ment under paragraph (1) provided to a
23 home health agency; and

24 “(ii) subject to subparagraph (B), the
25 allocation of the total amount available

1 under subsection (d) for value-based pay-
2 ments for any year between payments with
3 respect to agencies that meet the require-
4 ment under subparagraph (A) of para-
5 graph (1) and agencies that meet the re-
6 quirement under subparagraph (B) of such
7 paragraph.

8 “(B) REQUIREMENTS REGARDING THE
9 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
10 BASED PAYMENTS FOR AGENCIES EXCEEDING A
11 THRESHOLD.—The Secretary shall ensure
12 that—

13 “(i) a majority of the total amount
14 available under subsection (d) for value-
15 based payments for any year is provided to
16 home health agencies that are receiving
17 such payments because they meet the re-
18 quirement under paragraph (1)(B); and

19 “(ii) with respect to 2009 and each
20 subsequent year, the percentage of the
21 total amount available under subsection (d)
22 for value-based payments for any year that
23 is used to make payments to agencies that
24 meet such requirement is greater than
25 such percentage in the previous year.

1 “(4) REQUIREMENTS.—

2 “(A) REQUIRED SUBMISSION OF DATA.—

3 In order for a home health agency to be eligible
4 for a value-based payment for a year, the agen-
5 cy must have complied with the requirements
6 under section 1895(b)(3)(B)(v)(II) with respect
7 to that year.

8 “(B) ATTESTATION REGARDING DATA.—In

9 order for a home health agency to be eligible for
10 a value-based payment for a year, the agency
11 must have provided the Secretary (under proce-
12 dures established by the Secretary) with an at-
13 testation that the data submitted under section
14 1895(b)(3)(B)(v)(II) with respect to that year
15 is complete and accurate.

16 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-

17 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE

18 FUNDING.—The Secretary shall establish payment

19 amounts under paragraph (3)(A) so that, as esti-

20 mated by the Secretary, the total amount of value-

21 based payments made in a year under paragraph (1)

22 is equal to the total amount available under sub-

23 section (d) for such payments for the year.

24 “(6) PAYMENT METHODS AND TIMING OF PAY-

25 MENTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the payment of value-based pay-
3 ments under paragraph (1) shall be based on
4 such a method as the Secretary determines ap-
5 propriate.

6 “(B) TIMING.—The Secretary shall ensure
7 that value-based payments under paragraph (1)
8 with respect to a year are made by not later
9 than December 31 of the subsequent year.

10 “(c) DESCRIPTION OF HOW AGENCIES WOULD HAVE
11 FARED UNDER PROGRAM.—Not later than January 1,
12 2008, the Secretary shall provide each home health agency
13 with a description of the Secretary’s estimate of how pay-
14 ments to the agency under this title would have been af-
15 fected with respect to items and services furnished during
16 a period, as determined by the Secretary, if the program
17 under this section (and the amendments made by section
18 6110(f) of the Deficit Reduction Omnibus Reconciliation
19 Act of 2005) had been in effect with respect to that period.

20 “(d) FUNDING.—

21 “(1) AMOUNT.—The amount available for
22 value-based payments under this section with respect
23 to a year shall be equal to the amount of the reduc-
24 tion in expenditures under the Federal Hospital In-
25 surance 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

1 (ii) by adding at the end the following
2 new clause:

3 “(viii)(I) For purposes of clause
4 (i)(XX), for fiscal year 2007 and each sub-
5 sequent fiscal year, in the case of a sub-
6 section (d) hospital that does not submit
7 data in accordance with subclause (II) with
8 respect to such a fiscal year, the applicable
9 percentage increase under such clause for
10 such fiscal year shall be reduced by 2 per-
11 centage points. Such reduction shall apply
12 only with respect to the fiscal year in-
13 volved, and the Secretary shall not take
14 into account such reduction in computing
15 the applicable percentage increase under
16 clause (i)(XX) for a subsequent fiscal year.

17 “(II) For fiscal year 2007 and each
18 subsequent fiscal year, each subsection (d)
19 hospital shall submit to the Secretary such
20 data that the Secretary determines is ap-
21 propriate for the measurement of health
22 care quality, including data necessary for
23 the operation of the PPS hospital value-
24 based purchasing program under section
25 1860E-2. Such data shall be submitted in

1 a form and manner, and at a time, speci-
 2 fied by the Secretary for purposes of this
 3 clause.

4 “(III) The Secretary shall establish
 5 procedures for making data submitted
 6 under subclause (II) available to the public
 7 in a clear and understandable form. Such
 8 procedures shall ensure that a subsection
 9 (d) hospital has the opportunity to review
 10 the data that is to be made public with re-
 11 spect to the hospital prior to such data
 12 being made public.”.

13 (B) CONFORMING AMENDMENTS.—Section
 14 1886(b)(3)(B)(i) (42 U.S.C.
 15 1395ww(b)(3)(B)(i)) is amended—

16 (i) in subclause (XIX), by striking
 17 “2007” and inserting “2006”; and

18 (ii) in subclause (XX)—

19 (I) by striking “2008” and in-
 20 sserting “2007”; and

21 (II) by inserting “subject to
 22 clause (viii),” after “fiscal year,”.

23 (2) REDUCTION IN PAYMENTS IN ORDER TO
 24 FUND PROGRAM.—

1 (A) REDUCTION IN PAYMENTS.—Section
2 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is
3 amended—

4 (i) in clause (iv), by striking “5 per-
5 cent nor more than 6 percent” and insert-
6 ing “the applicable lower percent nor more
7 than the applicable upper percent”; and

8 (ii) by adding at the end the following
9 new clause:

10 “(vii) For purposes of clause (iv)—

11 “(I) for fiscal years prior to 2007, the ‘lower
12 percent’ is 5.0 percent and the ‘upper percent’ is 6.0
13 percent;

14 “(II) for fiscal year 2007, the ‘lower percent’ is
15 4.0 percent and the ‘upper percent’ is 5.0 percent;

16 “(III) for fiscal year 2008, the ‘lower percent’
17 is 3.75 percent and the ‘upper percent’ is 4.75 per-
18 cent;

19 “(IV) for fiscal year 2009, the ‘lower percent’
20 is 3.5 percent and the ‘upper percent’ is 4.5 percent;

21 “(V) for fiscal year 2010, the ‘lower percent’ is
22 3.25 percent and the ‘upper percent’ is 4.25 percent;
23 and

1 “(VI) for fiscal year 2011 and each subsequent
2 fiscal year, the ‘lower percent’ is 3.0 percent and the
3 ‘upper percent’ is 4.0 percent.”.

4 (B) CONTINUATION OF CURRENT LEVEL
5 OF REDUCTIONS TO THE AVERAGE STANDARD-
6 IZED AMOUNT.—Section 1886(d)(3)(B) (42
7 U.S.C. 1395ww(d)(3)(B)) is amended to read
8 as follows:

9 “(B) REDUCING FOR VALUE OF OUTLIER PAY-
10 MENTS AND FOR FUNDING OF HOSPITAL VALUE-
11 BASED PURCHASING PROGRAM.—

12 “(i) IN GENERAL.—The Secretary shall re-
13 duce each of the average standardized amounts
14 determined under subparagraph (A) by a factor
15 equal to a fraction—

16 “(I) the numerator of which is the
17 sum of—

18 “(aa) the additional payments
19 described in paragraph (5)(A) (relat-
20 ing to outlier payments); and

21 “(bb) the applicable percent of
22 the total payments projected or esti-
23 mated to be made based on DRG pro-
24 spective payment rates for discharges
25 in that year; and

1 “(II) the denominator of which is the
2 total payments projected or estimated to
3 be made based on DRG prospective pay-
4 ment rates for discharges in that year.

5 “(ii) APPLICABLE PERCENT.—For pur-
6 poses of clause (i)(I)(bb), the term ‘applicable
7 percent’ means—

8 “(I) for fiscal years prior to fiscal
9 year 2007, 0 percent;

10 “(II) for fiscal year 2007, 1.0 percent;

11 “(III) for fiscal year 2008, 1.25 per-
12 cent;

13 “(IV) for fiscal year 2009, 1.5 per-
14 cent;

15 “(V) for fiscal year 2010, 1.75 per-
16 cent; and

17 “(VI) for fiscal year 2011 and each
18 subsequent year, 2.0 percent.”.

19 (3) VALUE-BASED PURCHASING DEMONSTRA-
20 TION PROGRAM FOR CRITICAL ACCESS HOSPITALS.—

21 (A) ESTABLISHMENT.—Not later than 6
22 months after the date of enactment of this Act,
23 the Secretary shall establish a 2-year dem-
24 onstration program under which the Secretary
25 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,

1 the Secretary shall submit to Congress a report
2 on the demonstration program together with
3 recommendations on the establishment of a per-
4 manent value-based purchasing program under
5 the Medicare program for critical access hos-
6 pitals and recommendations for such other leg-
7 islation or administrative action as the Sec-
8 retary determines appropriate.

9 (c) PHYSICIANS AND PRACTITIONERS.—

10 (1) VOLUNTARY SUBMISSION OF PHYSICIAN
11 AND PRACTITIONER QUALITY DATA.—

12 (A) UPDATE FOR PHYSICIANS AND PRACTI-
13 TIONERS THAT SUBMIT QUALITY DATA.—Sec-
14 tion 1848(d)(4) (42 U.S.C. 1395w-4(d)(4)) is
15 amended by adding at the end the following
16 new subparagraph:

17 “(G) ADJUSTMENT IF QUALITY DATA NOT
18 SUBMITTED.—

19 “(i) ADJUSTMENT.—For 2007 and
20 each subsequent year, in the case of serv-
21 ices furnished by a physician or a practi-
22 tioner (as defined in section 1860E-
23 3(a)(3)) that does not submit data in ac-
24 cordance with clause (ii) with respect to
25 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

1 making data submitted under clause
2 (ii), with respect to items and services
3 furnished on or after January 1,
4 2008, available to the public in 3
5 phases as follows:

6 “(aa) PHASE I.—During
7 phase I, the Secretary shall make
8 available to the public the iden-
9 tity of physicians and practi-
10 tioners that are submitting such
11 data.

12 “(bb) PHASE II.—During
13 phase II, the Secretary shall
14 make available to the public the
15 identity of physicians and practi-
16 tioners that are receiving a value-
17 based payment under section
18 1860E-3.

19 “(cc) PHASE III.—During
20 phase III, the Secretary shall
21 make data submitted under
22 clause (ii) available to the public
23 in a clear and understandable
24 form.

1 “(II) REVIEW.—The procedures
2 established under subclause (I) shall
3 ensure that a physician or practitioner
4 has the opportunity to review the data
5 that is to be made public with respect
6 to the physician or practitioner under
7 subclause (I)(cc) prior to such data
8 being made public.

9 “(III) EXCEPTIONS.—The Sec-
10 retary shall establish exceptions to the
11 requirement for making data available
12 to the public under subclause (I). In
13 providing for such exceptions, the Sec-
14 retary shall take into account the size
15 and specialty representation of the
16 practice involved.”.

17 (B) CONFORMING AMENDMENT.—Section
18 1848(d)(4)(A) (42 U.S.C. 1395w-4(d)(4)(A)) is
19 amended, in the matter preceding clause (i), by
20 striking “subparagraph (F)” and inserting
21 “subparagraphs (F) and (G)”.

22 (2) REDUCTION IN CONVERSION FACTOR FOR
23 PHYSICIANS AND PRACTITIONERS THAT SUBMIT
24 QUALITY DATA IN ORDER TO FUND PROGRAM.—

1 (A) IN GENERAL.—Section 1848(d) (42
2 U.S.C. 1395w-4(d)) is amended by adding at
3 the end the following new paragraph:

4 “(6) REDUCTION IN CONVERSION FACTOR FOR
5 PHYSICIANS AND PRACTITIONERS IN ORDER TO
6 FUND VALUE-BASED PURCHASING PROGRAM.—

7 “(A) IN GENERAL.—For 2009 and each
8 subsequent year, the single conversion factor
9 otherwise applicable under this subsection to
10 services furnished in the year by a physician or
11 a practitioner (as defined in section 1860E-
12 3(a)(3)) that complies with the requirements
13 under paragraph (4)(G)(ii) for the year (deter-
14 mined after application of the update under
15 paragraph (4)) shall be reduced by the applica-
16 ble percent.

17 “(B) APPLICABLE PERCENT.—For pur-
18 poses of subparagraph (A), the term ‘applicable
19 percent’ means—

20 “(i) for 2009, 1.0 percent;

21 “(ii) for 2010, 1.25 percent;

22 “(iii) for 2011, 1.5 percent;

23 “(iv) for 2012, 1.75 percent; and

24 “(v) for 2013 and each subsequent
25 year, 2.0 percent.”.

1 (B) CONFORMING AMENDMENT.—Section
2 1848(d)(1)(A) (42 U.S.C. 1395w-4(d)(1)(A)) is
3 amended by striking “The conversion factor”
4 and inserting “Subject to paragraph (6), the
5 conversion factor”.

6 (d) PLANS.—

7 (1) SUBMISSION OF QUALITY DATA.—

8 (A) MEDICARE ADVANTAGE ORGANIZA-
9 TIONS.—Section 1852(e) (42 U.S.C. 1395w-
10 22(e)), as amended by section 722 of the Medi-
11 care Prescription Drug, Improvement, and
12 Modernization Act of 2003 (Public Law 108-
13 173; 117 Stat. 2347), is amended—

14 (i) in paragraph (1), by striking “an
15 MA private fee-for-service plan or”; and

16 (ii) in paragraph (3)—

17 (I) in subparagraph (A)—

18 (aa) in clause (i), by adding
19 at the end the following new sen-
20 tence: “Such data shall include
21 data necessary for the operation
22 of the plan value-based pur-
23 chasing program under section
24 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)—

1 (aa) in clause (i), by striking
2 “The” and inserting “Subject to
3 clause (ii), the”; and

4 (bb) by striking clause (ii)
5 and inserting the following new
6 clause:

7 “(ii) CHANGES IN TYPES OF DATA.—
8 Subject to clause (iii), the Secretary may
9 only change the types of data that are re-
10 quired to be submitted under subpara-
11 graph (A) after submitting to Congress a
12 report on the reasons for such changes
13 that was prepared—

14 “(I) in the case of data necessary
15 for the operation of the plan value-
16 based purchasing program under sec-
17 tion 1860E-4, after the requirements
18 under subsections (c) and (d) of sec-
19 tion 1860E-1 have been complied
20 with; and

21 “(II) in the case of any other
22 data, in consultation with MA organi-
23 zations and private accrediting bod-
24 ies.”.

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.

1 (D) SENSE OF THE SENATE.—It is the
2 sense of the Senate that, in establishing the
3 timeframes for Medicare Advantage organiza-
4 tions and entities with a reasonable cost reim-
5 bursement contract under section 1876(h) of
6 the Social Security Act (42 U.S.C. 1395mm(h))
7 to report quality data under sections 1852(e)(3)
8 and 1876(h)(6), respectively, of such Act, as
9 added by this section, the Secretary should take
10 into account other timeframes for reporting
11 quality data that such organizations and enti-
12 ties are subject to under other Federal and
13 State programs and in the commercial market.

14 (2) REDUCTION IN PAYMENTS TO ORGANIZA-
15 TIONS IN ORDER TO FUND PROGRAM.—

16 (A) MEDICARE ADVANTAGE PAYMENTS.—

17 (i) IN GENERAL.—Section 1853(a)(1)
18 (42 U.S.C. 1395w-23(a)(1)), as amended
19 by section 222(e) of the Medicare Prescrip-
20 tion Drug, Improvement, and Moderniza-
21 tion Act of 2003 (Public Law 108-173;
22 117 Stat. 2200), is amended—

23 (I) in clauses (i) and (ii) of sub-
24 paragraph (B), by inserting “and, for
25 2009 and each subsequent year, ex-

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—

1 (i) in paragraph (1)(A)(i), by striking
2 “or (6)(A)” and inserting “(6)(A), or (7)”;
3 and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(7) SUBMISSION OF INFORMATION OF HOW
7 VALUE-BASED PAYMENTS WILL BE USED.—For an
8 MA plan for a plan year beginning on or after Janu-
9 ary 1, 2011, the information described in this para-
10 graph is a description of how the organization offer-
11 ing the plan will use any value-based payments that
12 the organization received under section 1860E-4
13 with respect to the plan for the year preceding the
14 year in which such information is submitted.”.

15 (B) REASONABLE COST CONTRACTS.—Sec-
16 tion 1876(h) (42 U.S.C. 1395mm(h)), as
17 amended by subsection (c)(2), is amended by
18 adding at the end the following new paragraph:

19 “(8) Not later than July 1 of each year (beginning
20 in 2010), any eligible entity with a reasonable cost reim-
21 bursement contract under this subsection that received a
22 value-based payment under section 1860E-4 with respect
23 to the contract for the preceding year shall submit to the
24 Secretary a report containing a description of how the or-
25 ganization 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

1 service furnished by a provider of services or a renal
2 dialysis facility that is excluded from the program
3 under section 1860E-5 by reason of subsection
4 (a)(3) of such section at the time the item or service
5 is furnished.

6 “(ii) For purposes of clause (i), the term ‘appli-
7 cable percent’ means—

8 “(I) for 2007, 1.0 percent;

9 “(II) for 2008, 1.25 percent;

10 “(III) for 2009, 1.5 percent;

11 “(IV) for 2010, 1.75 percent; and

12 “(V) for 2011 and each subsequent year,

13 2.0 percent.”.

14 (3) VALUE-BASED PURCHASING UNDER THE
15 DEMONSTRATION OF BUNDLED CASE-MIX ADJUSTED
16 PAYMENT SYSTEM FOR ESRD SERVICES.—Section
17 623(e) of the Medicare Prescription Drug, Improve-
18 ment, and Modernization Act of 2003 (42 U.S.C.
19 1395rr note) is amended by adding at the end the
20 following new paragraph:

21 “(7) VALUE-BASED PURCHASING PROGRAM.—

22 As part of the demonstration project under this sub-
23 section, the Secretary shall, beginning January 1,
24 2007, implement a value-based purchasing program
25 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)

1 available to the public in a clear and
2 understandable form. Such procedures
3 shall ensure that a home health agen-
4 cy has the opportunity to review the
5 data that is to be made public with
6 respect to the agency prior to such
7 data being made public.”.

8 (2) REDUCTION IN STANDARD PROSPECTIVE
9 PAYMENT AMOUNT FOR AGENCIES THAT SUBMIT
10 QUALITY DATA IN ORDER TO FUND PROGRAM.—Sec-
11 tion 1895(b)(3) (42 U.S.C. 1395fff(b)(3)) is amend-
12 ed by adding at the end the following new subpara-
13 graph:

14 “(D) REDUCTION IN ORDER TO FUND
15 VALUE-BASED PURCHASING PROGRAM.—

16 “(i) IN GENERAL.—For 2008 and
17 each subsequent year, in the case of a
18 home health agency that complies with the
19 submission requirements under section
20 1895(b)(3)(B)(v)(II) for the year, the
21 standard prospective payment amount (or
22 amounts) otherwise applicable under this
23 paragraph for the year shall be reduced by
24 the applicable percent.

1 “(ii) APPLICABLE PERCENT.—For
2 purposes of clause (i), the term ‘applicable
3 percent’ means—

4 “(I) for 2008, 1.0 percent;

5 “(II) for 2009, 1.25 percent;

6 “(III) for 2010, 1.5 percent;

7 “(IV) for 2011, 1.75 percent;

8 and

9 “(V) for 2012 and each subse-
10 quent year, 2.0 percent.”.

11 (g) SKILLED NURSING FACILITIES.—

12 (1) REQUIREMENT FOR SKILLED NURSING FA-
13 CILITIES TO REPORT FUNCTIONAL CAPACITY OF
14 MEDICARE RESIDENTS UPON ADMISSION AND DIS-
15 CHARGE.—Section 1819(b) (42 U.S.C. 1395i–3(b))
16 is amended by adding at the end the following new
17 paragraph:

18 “(9) REPORTING FUNCTIONAL CAPACITY AT AD-
19 MISSION AND DISCHARGE.—

20 “(A) IN GENERAL.—On and after October
21 1, 2006, a skilled nursing facility must submit
22 a report to the Secretary on the functional ca-
23 pacity of each resident who is entitled to bene-
24 fits under this part at the time of—

1 “(i) the admission of such resident;

2 and

3 “(ii) the discharge of such resident.

4 “(B) TIMEFRAME.—A report required
5 under subparagraph (A) shall be submitted
6 within 10 days of the admission or discharge,
7 as the case may be.”.

8 (2) VOLUNTARY SUBMISSION OF SKILLED
9 NURSING FACILITY QUALITY DATA.—Section
10 1888(e)(4)(E) (42 U.S.C. 1395yy(e)(4)(E)) is
11 amended—

12 (A) in clause (ii)(IV), by inserting “subject
13 to clause (iii),” after “subsequent fiscal year,”;
14 and

15 (B) by adding at the end the following new
16 clause:

17 “(iii) ADJUSTMENT IF QUALITY DATA
18 NOT SUBMITTED.—

19 “(I) ADJUSTMENT.—For pur-
20 poses of clause (ii)(IV), for fiscal year
21 2009 and each subsequent fiscal year,
22 in the case of a skilled nursing facility
23 that does not submit data in accord-
24 ance with subclause (II) with respect
25 to such a fiscal year, the skilled nurs-

1 ing facility market basket percentage
2 change applicable under such clause
3 for such fiscal year shall be reduced
4 by 2 percentage points. Such reduc-
5 tion shall apply only with respect to
6 the fiscal year involved, and the Sec-
7 retary shall not take into account
8 such reduction in computing the Fed-
9 eral per diem rate under this section
10 for a subsequent fiscal year.

11 “(II) SUBMISSION OF QUALITY
12 DATA.—For fiscal year 2008 and each
13 subsequent fiscal year, each skilled
14 nursing facility shall submit to the
15 Secretary such data that the Sec-
16 retary determines, after conducting a
17 study in consultation with the entities
18 described in subsections (c)(1), (c)(2),
19 and (d) of section 1860E–1, is appro-
20 priate for the measurement of health
21 outcomes and other indices of quality.
22 Such data shall be submitted in a
23 form and manner, and at a time,
24 specified by the Secretary for pur-
25 poses of this clause.

1 “(III) PUBLIC AVAILABILITY OF
2 DATA SUBMITTED.—The Secretary
3 shall establish procedures for making
4 data submitted under subclause (II)
5 available to the public in a clear and
6 understandable form. Such procedures
7 shall ensure that a facility has the op-
8 portunity to review the data that is to
9 be made public with respect to the fa-
10 cility prior to such data being made
11 public.”.

12 (h) CONFORMING REFERENCES TO PREVIOUS PART
13 E.—Any reference in law (in effect before the date of the
14 enactment of this Act) to part E of title XVIII of the So-
15 cial Security Act is deemed a reference to part F of such
16 title (as in effect after such date).

17 **SEC. 6111. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEU-**
18 **TRALITY IN DETERMINING THE AMOUNT OF**
19 **PAYMENTS TO MEDICARE ADVANTAGE ORGA-**
20 **NIZATIONS.**

21 (a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w-
22 23) is amended—

23 (1) in subsection (j)(1)—

24 (A) in subparagraph (A)—

1 (i) by inserting “(or, beginning with
2 2007, $\frac{1}{12}$ of the applicable amount deter-
3 mined under subsection (k)(1))” after
4 “1853(c)(1)”; and

5 (ii) by inserting “(for years before
6 2007)” after “adjusted as appropriate”;

7 (B) in subparagraph (B), by inserting
8 “(for years before 2007)” after “adjusted as
9 appropriate”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(k) DETERMINATION OF APPLICABLE AMOUNT FOR
13 PURPOSES OF CALCULATING THE BENCHMARK
14 AMOUNTS.—

15 “(1) APPLICABLE AMOUNT DEFINED.—For
16 purposes of subsection (j), subject to paragraph (2),
17 the term ‘applicable amount’ means for an area—

18 “(A) for 2007—

19 “(i) if such year is not specified under
20 subsection (c)(1)(D)(ii), an amount equal
21 to the amount specified in subsection
22 (c)(1)(C) for the area for 2006—

23 “(I) first adjusted by the re-
24 scaling factor for 2006 for the area
25 (as made available by the Secretary in

1 the announcement of the rates on
2 April 4, 2005, under subsection
3 (b)(1), but excluding any national ad-
4 justment factors for coding intensity
5 and risk adjustment budget neutrality
6 that were included in such factor);
7 and

8 “(II) then increased by the na-
9 tional per capita MA growth percent-
10 age, described in subsection (c)(6) for
11 that succeeding year, but not taking
12 into account any adjustment under
13 subparagraph (C) of such subsection
14 for a year before 2004;

15 “(ii) if such year is specified under
16 subsection (c)(1)(D)(ii), an amount equal
17 to the greater of—

18 “(I) the amount determined
19 under clause (i) for the area for the
20 year; or

21 “(II) the amount specified in
22 subsection (c)(1)(D) for the area for
23 the year; and

24 “(B) for a subsequent year—

1 “(i) if such year is not specified under
2 subsection (c)(1)(D)(ii), an amount equal
3 to the amount determined under this para-
4 graph for the area for the previous year,
5 increased by the national per capita MA
6 growth percentage, described in subsection
7 (c)(6) for that succeeding year, but not
8 taking into account any adjustment under
9 subparagraph (C) of such subsection for a
10 year before 2004; and

11 “(ii) if such year is specified under
12 subsection (c)(1)(D)(ii), an amount equal
13 to the greater of—

14 “(I) the amount determined
15 under clause (i) for the area for the
16 year; or

17 “(II) the amount specified in
18 subsection (c)(1)(D) for the area for
19 the year.

20 “(2) ADJUSTMENT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (D), in the case of 2007 through
23 2010, the applicable amount determined under
24 paragraph (1) shall be increased by a factor
25 equal to 1 plus the product of—

1 “(i) the percent determined under
2 subparagraph (B) for the year; and

3 “(ii) the applicable percent for the
4 year under subparagraph (C).

5 “(B) PERCENT DETERMINED.—

6 “(i) IN GENERAL.—For purposes of
7 subparagraph (A)(i), subject to clause (ii),
8 the percent determined under this subpara-
9 graph for a year is a percent equal to a
10 fraction—

11 “(I) the numerator of which is an
12 amount equal to—

13 “(aa) the Secretary’s esti-
14 mate of the total payments that
15 would have been made under this
16 part in the year if all the month-
17 ly payment amounts for all MA
18 plans were equal to $\frac{1}{12}$ of the
19 annual MA capitation rate under
20 subsection (c)(1) for the area and
21 year; minus

22 “(bb) the Secretary’s esti-
23 mate of the total payments that
24 would have been made under this
25 part in the year if all the month-

1 ly payment amounts for all MA
2 plans were equal to $\frac{1}{12}$ of the
3 MA area-specific non-drug
4 monthly benchmark amount
5 under subsection (j) for the area
6 and year; and

7 “(II) the denominator of which is
8 equal to the total amount estimated
9 for the year under subclause (I)(bb).

10 “(ii) REQUIREMENTS.—In estimating
11 the amounts under clause (i), the Sec-
12 retary—

13 “(I) shall—

14 “(aa) use a complete set of
15 the most recent and representa-
16 tive Medicare Advantage risk
17 scores under subsection (a)(3)
18 that are available from the risk
19 adjustment model announced for
20 the year;

21 “(bb) adjust the risk scores
22 to reflect changes in treatment
23 and coding practices in the fee-
24 for-service sector;

1 “(cc) adjust the risk scores
2 for differences in coding patterns
3 between Medicare Advantage
4 plans and providers under part A
5 and B to the extent that the Sec-
6 retary has identified such dif-
7 ferences;

8 “(dd) as necessary, adjust
9 the risk scores for late data sub-
10 mitted by Medicare Advantage
11 organizations;

12 “(ee) as necessary, adjust
13 the risk scores for lagged cohorts;
14 and

15 “(ff) as necessary, adjust
16 the risk scores for changes in en-
17 rollment in Medicare Advantage
18 plans during the year; and

19 “(II) may take into account the
20 estimated health risk of enrollees in
21 preferred provider organization plans
22 (including MA regional plans) for the
23 year.

24 In order to make the adjustment required
25 under item (cc) and to ensure payment ac-

1 curacy, the Secretary shall conduct an
2 analysis of the differences described in
3 such item. The Secretary shall complete
4 such analysis by a date necessary to ensure
5 that the results of such analysis are incor-
6 porated into the payment rates for a year
7 not later than 2008. In conducting such
8 analysis, the Secretary shall use data sub-
9 mitted with respect to 2004 and subse-
10 quent years, as available.

11 “(C) APPLICABLE PERCENT.—For pur-
12 poses of subparagraph (A)(ii), the term ‘appli-
13 cable percent’ means—

14 “(i) for 2007, 55 percent;

15 “(ii) for 2008, 40 percent;

16 “(iii) for 2009, 25 percent; and

17 “(iv) for 2010, 5 percent.

18 “(D) TERMINATION OF ADJUSTMENT.—
19 The Secretary shall not make any adjustment
20 under subparagraph (A) in a year if the
21 amount estimated under subparagraph
22 (B)(i)(I)(bb) for the year is equal to or greater
23 than the amount estimated under subparagraph
24 (B)(i)(I)(aa) for the year.

25 “(3) NO ADDITIONAL ADJUSTMENTS.—

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

1 (2) no interest or late penalty shall be paid to
2 an entity or individual for any delay in a payment
3 by reason of the application of paragraph (1).

4 **SEC. 6113. RURAL PACE PROVIDER GRANT PROGRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) CMS.—The term “CMS” means the Cen-
7 ters for Medicare & Medicaid Services.

8 (2) ELIGIBLE PARTICIPANT.—The term “eligi-
9 ble participant” means a PACE program eligible in-
10 dividual (as defined in sections 1894(a)(5) and
11 1934(a)(5) of the Social Security Act (42 U.S.C.
12 1395eee(a)(5); 1396u-4(a)(5))).

13 (3) PACE PROGRAM.—The term “PACE pro-
14 gram” has the meaning given that term in sections
15 1894(a)(2) and 1934(a)(2) of the Social Security
16 Act (42 U.S.C. 1395eee(a)(2); 1396u-4(a)(2)).

17 (4) PACE PROVIDER.—The term “PACE pro-
18 vider” has the meaning given that term in section
19 1894(a)(3) or 1934(a)(3) of the Social Security Act
20 (42 U.S.C. 1395eee(a)(3); 1396u-4(a)(3)).

21 (5) RURAL AREA.—The term “rural area” has
22 the meaning given that term in section
23 1886(d)(2)(D) of the Social Security Act (42 U.S.C.
24 1395ww(d)(2)(D)).

1 (6) RURAL PACE PILOT SITE.—The term “rural
2 PACE pilot site” means a PACE provider that has
3 been approved to provide services in a geographic
4 service area that is, in whole or in part, a rural area,
5 and that has received a site development grant
6 under this section.

7 (7) SECRETARY.—The term “Secretary” means
8 the Secretary of Health and Human Services.

9 (b) SITE DEVELOPMENT GRANTS AND TECHNICAL
10 ASSISTANCE PROGRAM.—

11 (1) SITE DEVELOPMENT GRANTS.—

12 (A) IN GENERAL.—The Secretary shall es-
13 tablish a process and criteria to award site de-
14 velopment grants to qualified PACE providers
15 that have been approved to serve a geographic
16 service area that is, in whole or in part, a rural
17 area.

18 (B) AMOUNT PER AWARD.—A site develop-
19 ment grant awarded under subparagraph (A) to
20 any individual rural PACE pilot site shall not
21 exceed \$750,000.

22 (C) NUMBER OF AWARDS.—Not more than
23 15 rural PACE pilot sites shall be awarded a
24 site development grant under subparagraph
25 (A).

1 (D) USE OF FUNDS.—Funds made avail-
2 able under a site development grant awarded
3 under subparagraph (A) may be used for the
4 following expenses only to the extent such ex-
5 penses are incurred in relation to establishing
6 or delivering PACE program services in a rural
7 area:

8 (i) Feasibility analysis and planning.

9 (ii) Interdisciplinary team develop-
10 ment.

11 (iii) Development of a provider net-
12 work, including contract development.

13 (iv) Development or adaptation of
14 claims processing systems.

15 (v) Preparation of special education
16 and outreach efforts required for the
17 PACE program.

18 (vi) Development of expense reporting
19 required for calculation of outlier payments
20 or reconciliation processes.

21 (vii) Development of any special qual-
22 ity of care or patient satisfaction data col-
23 lection efforts.

24 (viii) Establishment of a working cap-
25 ital 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—

1 (A) outreach and education to State agen-
2 cies and provider organizations interested in es-
3 tablishing PACE programs in rural areas; and

4 (B) technical assistance necessary to sup-
5 port rural PACE pilot sites.

6 (c) COST OUTLIER PROTECTION FOR RURAL PACE
7 PILOT SITES.—

8 (1) ESTABLISHMENT OF FUND FOR REIM-
9 BURSEMENT OF OUTLIER COSTS.—

10 (A) IN GENERAL.—Notwithstanding any
11 other provision of law, the Secretary shall es-
12 tablish an outlier fund to reimburse rural
13 PACE pilot sites for outlier costs (as defined in
14 subparagraph (B)) incurred for eligible partici-
15 pants who reside in a rural area in accordance
16 with the expense payment specified in subpara-
17 graph (C).

18 (B) OUTLIER COSTS DEFINED.—

19 (i) IN GENERAL.—In subparagraph
20 (A), the term “outlier costs” means the in-
21 patient and related physician and ancillary
22 costs in excess of \$50,000 incurred within
23 a given 12-month period for an eligible
24 participant who resides in a rural area.

1 (ii) INCLUSION IN ONLY 1 PERIOD.—

2 Outlier costs may not be included in more
3 than one 12-month period for purposes of
4 calculating an outlier expense payment
5 under subparagraph (C).

6 (C) OUTLIER EXPENSE PAYMENT.—

7 (i) PAYMENT FOR OUTLIER COSTS.—

8 Subject to clause (ii), in the case of a rural
9 PACE pilot site that has incurred outlier
10 costs for an eligible participant, the rural
11 PACE pilot site shall receive an outlier ex-
12 pense payment equal to 80 percent of such
13 costs.

14 (ii) LIMITATIONS.—

15 (I) COSTS INCURRED PER ELIGI-
16 BLE PARTICIPANT.—The total amount
17 of outlier expense payments made
18 under clause (i) to a rural PACE pilot
19 site for outlier costs incurred with re-
20 spect to an eligible participant shall
21 not exceed \$100,000 for the 12-month
22 period used to calculate the payment.

23 (II) COSTS INCURRED PER PRO-
24 VIDER.—No rural PACE pilot site
25 may receive more than \$500,000 in

1 total outlier expense payments in a
2 12-month period.

3 (III) LIMITATION OF OUTLIER
4 COST REIMBURSEMENT PERIOD.—A
5 rural PACE pilot site shall only re-
6 ceive outlier expense payments under
7 this subparagraph with respect to
8 outlier costs incurred during the first
9 3 years of the site's operation.

10 (D) REQUIREMENT TO ACCESS RISK RE-
11 SERVES PRIOR TO PAYMENT.—A rural PACE
12 pilot site shall access and exhaust any risk re-
13 serves held or arranged for the provider (other
14 than revenue or reserves maintained to satisfy
15 the requirements of section 460.80(c) of title
16 42, Code of Federal Regulations) and any
17 working capital established through a site devel-
18 opment grant awarded under subsection (b)(1),
19 prior to receiving any payment from the outlier
20 fund.

21 (E) APPROPRIATION.—

22 (i) IN GENERAL.—Out of funds in the
23 Treasury not otherwise appropriated, there
24 are appropriated to the Secretary to carry

1 out this subsection for the period of fiscal
2 years 2006 through 2007, \$10,000,000.

3 (ii) AVAILABILITY.—Funds appro-
4 priated under clause (i) shall remain avail-
5 able for expenditure through fiscal year
6 2010.

7 (d) EVALUATION OF PACE PROVIDERS SERVING
8 RURAL SERVICE AREAS.—Not later than 60 months after
9 the date of enactment of this Act, the Secretary shall sub-
10 mit a report to Congress containing an evaluation of the
11 experience of rural PACE pilot sites.

12 (e) AMOUNTS IN ADDITION TO PAYMENTS UNDER
13 SOCIAL SECURITY ACT.—Any amounts paid under the au-
14 thority of this section to a PACE provider shall be in addi-
15 tion to payments made to the provider under section 1894
16 or 1934 of the Social Security Act (42 U.S.C. 1395eee;
17 1396u–4).

18 **SEC. 6114. WAIVER OF PART B LATE ENROLLMENT PEN-**
19 **ALTY FOR CERTAIN INTERNATIONAL VOLUN-**
20 **TEERS.**

21 (a) IN GENERAL.—

22 (1) WAIVER OF PENALTY.—Section 1839(b)(42
23 U.S.C. 1395r(b)) is amended in the second sentence
24 by inserting the following before the period at the
25 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—

1 “(A) that covers at least a 12-month period;
2 and

3 “(B) that is sponsored by an organization de-
4 scribed in section 501(c)(3) of the Internal Revenue
5 Code of 1986 and exempt from taxation under sec-
6 tion 501(a) of such Code.”.

7 (B) COVERAGE PERIOD.—Section 1838
8 (42 U.S.C. 1395q) is amended by adding at the
9 end the following new subsection:

10 “(f) Notwithstanding subsection (a), in the case of
11 an individual who enrolls during a special enrollment pe-
12 riod pursuant to section 1837(k), the coverage period shall
13 begin on the first day of the month following the month
14 in which the individual so enrolls.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a)(1) shall apply to months beginning with
17 January 2007 and the amendments made by subsection
18 (a)(2) shall take effect on January 1, 2007.

19 **SEC. 6115. DELIVERY OF SERVICES AT FEDERALLY QUALI-**
20 **FIED HEALTH CENTERS.**

21 (a) COVERAGE.—

22 (1) IN GENERAL.—Section 1861(aa)(3) (42
23 U.S.C. 1395x(aa)(3)) is amended—

1 (A) in subparagraph (A), by striking “,
2 and” and inserting “and services described in
3 subsections (qq) and (vv); and”;

4 (B) in subparagraph (B), by striking “sec-
5 tions 329, 330, and 340” and inserting “section
6 330”; and

7 (C) in the flush matter at the end, by in-
8 serting “by the center or by a health care pro-
9 fessional under contract with the center” after
10 “outpatient of a Federally qualified health cen-
11 ter”.

12 (2) CONSOLIDATED BILLING.—The first sen-
13 tence of section 1842(b)(6)(F) (42 U.S.C.
14 1395u(b)(6)(F)) is amended—

15 (A) by striking “and (G)” and inserting
16 “(G)”; and

17 (B) by inserting before the period at the
18 end the following: “, and (H) in the case of
19 services described in section 1861(aa)(3) that
20 are furnished by a health care professional
21 under contract with a Federally qualified health
22 center, payment shall be made to the center”.

23 (b) TECHNICAL CORRECTIONS.—Clauses (i) and
24 (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C.

1 1395x(aa)(4)(A)) are each amended by striking “(other
2 than subsection (h))”.

3 (c) EFFECTIVE DATES.—The amendments made by
4 this section shall apply to services furnished on or after
5 January 1, 2006.

6 **TITLE VII—COMMITTEE ON**
7 **HEALTH, EDUCATION, LABOR,**
8 **AND PENSIONS**

9 **Subtitle A—Education Provisions**

10 **CHAPTER 1—EDUCATION**

11 **SEC. 7101. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

12 (a) AMENDMENT.—Subpart 1 of part A of title IV
13 of the Higher Education Act of 1965 (20 U.S.C. 1070a)
14 is amended by adding at the end the following:

15 **“SEC. 401A. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

16 **“(a) GRANTS.—**

17 **“(1) IN GENERAL.—**From amounts appro-
18 priated under subsection (e) for a fiscal year and
19 subject to subsection (b), the Secretary shall award
20 grants to students (which shall be known as
21 ‘ProGAP awards’) in the same manner as the Sec-
22 retary awards grants to students under section 401,
23 except that—

24 **“(A) at the beginning of each award year,**
25 **the Secretary shall establish a maximum and**

1 minimum award level based on amounts made
2 available under subsection (e);

3 “(B) the Secretary shall only award grants
4 under this section to students eligible for a
5 grant under section 401 for the award year;
6 and

7 “(C) when determining eligibility for the
8 awards, the Secretary shall consider only those
9 students who are eligible for a grant under sec-
10 tion 401, as of June 30 of the award year for
11 which the determination is made.

12 “(2) STUDENTS WITH THE GREATEST NEED.—
13 The Secretary shall ensure grants are awarded
14 under this section to students with the greatest need
15 as determined in accordance with section 471.

16 “(b) COST OF ATTENDANCE LIMITATION.—A grant
17 awarded under this section for an award year shall be
18 awarded in an amount that does not exceed—

19 “(1) the student’s cost of attendance for the
20 award year; less

21 “(2) an amount equal to the expected family
22 contribution for that student for the award year.

23 “(c) SUPPLEMENT NOT SUPPLANT.—Grants award-
24 ed from funds made available under subsection (e) shall

1 be used to supplement, and not supplant, other Federal,
2 State, or institutional grant funds.

3 “(d) USE OF EXCESS FUNDS.—

4 “(1) 15 PERCENT OR LESS.—If, at the end of
5 a fiscal year, the funds available for making grant
6 payments under this section exceed the amount nec-
7 essary to make the grant payments required under
8 this section to eligible students by 15 percent or less,
9 then all of the excess funds shall remain available
10 for making grant payments under this section dur-
11 ing the next succeeding fiscal year.

12 “(2) MORE THAN 15 PERCENT.—If, at the end
13 of a fiscal year, the funds available for making grant
14 payments under this section exceed the amount nec-
15 essary to make the grant payments required under
16 this section to eligible students by more than 15 per-
17 cent, then all of such funds shall remain available
18 for making such grant payments but grant payments
19 may be made under this paragraph only with respect
20 to awards for that fiscal year.”

21 “(e) AUTHORIZATION AND APPROPRIATION OF
22 FUNDS.—There are authorized to be appropriated, and
23 there are appropriated, out of any money in the Treasury
24 not otherwise appropriated, for the Department of Edu-
25 cation to carry out this section and section 401B—

- 1 “(1) \$1,897,000,000 for fiscal year 2006;
2 “(2) \$1,901,000,000 for fiscal year 2007;
3 “(3) \$1,899,000,000 for fiscal year 2008;
4 “(4) \$1,898,000,000 for fiscal year 2009; and
5 “(5) \$1,897,000,000 for fiscal year 2010.

6 “(f) SUNSET PROVISION.—This section shall be effective with respect to amounts appropriated for fiscal year
7 2006 and each of the 4 succeeding fiscal years.”.

9 (b) SENSE OF THE SENATE.—It is the sense of the
10 Senate that the amounts appropriated to carry out sections
11 401A and 401B of the Higher Education Act of
12 1965 are the result of the savings generated by the
13 amendments made by this chapter.

14 **SEC. 7102. NATIONAL SMART GRANTS.**

15 Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is further amended
16 by adding after section 401A (as added by section 7101):

18 **“SEC. 401B. NATIONAL SMART GRANTS.**

19 “(a) FINDINGS.—Congress makes the following findings:
20

21 “(1) If the United States is to remain a world
22 leader in the global economy, its college students
23 must have the training they need to compete for the
24 best jobs of the 21st century.

1 (2) The United States intelligence community
2 faces major shortages in foreign languages critical to
3 national security, and will also require major incen-
4 tives to fill projected workforce needs.

5 “(3) Increasingly, the best jobs of the 21st cen-
6 tury will require baccalaureate degrees in the
7 sciences, mathematics, technology, engineering, and
8 foreign languages critical to national security, or be
9 generated by people who have such degrees.

10 “(4) Congress should establish a National
11 Science and Mathematics Access to Retain Talent
12 (SMART) grant program to meet the goals de-
13 scribed in paragraphs (1) through (3).

14 “(b) PURPOSE.—The purpose of this section is to in-
15 crease the number of postsecondary students from low-in-
16 come backgrounds who are enrolled in studies leading to
17 baccalaureate degrees in physical, life, or computer
18 sciences, mathematics, technology, engineering, and for-
19 eign languages critical to national security.

20 “(c) GRANTS AUTHORIZED.—From amounts appro-
21 priated under section 401A(c) for a fiscal year, the Sec-
22 retary shall award grants to eligible students to assist the
23 eligible students in paying their college education ex-
24 penses.

1 “(d) DESIGNATION.—A grant under this section shall
2 be known as a ‘National Science and Mathematics Access
3 to Retain Talent Grant’ or a ‘National SMART Grant’.

4 “(e) DEFINITION OF ELIGIBLE STUDENT.—In this
5 section the term ‘eligible student’ means a student who,
6 for the academic year for which the determination is
7 made—

8 “(1) is eligible for a Federal Pell Grant; and

9 “(2) is in the student’s 3rd or 4th year at an
10 institution of higher education majoring in—

11 “(A) mathematics, science, technology, or
12 engineering (as determined by the Secretary
13 pursuant to regulations); or

14 “(B) a foreign language that the Sec-
15 retary, in consultation with the Director of Na-
16 tional Intelligence, determines is critical to the
17 national security of the United States.

18 “(f) GRANT AMOUNT.—The Secretary shall award a
19 grant under this section in an amount that does not exceed
20 \$1,500 for an academic year.

21 “(g) FUNDING RULE.—The Secretary shall use not
22 more than \$450,000,000 of the funds appropriated under
23 section 401A(e) for each of the fiscal years 2006 through
24 2010 to carry out this section.

1 “(h) UNOBLIGATED FUNDS AVAILABLE FOR FED-
2 ERAL GRANT ASSISTANCE.—The Secretary shall make
3 any funds made available under subsection (g) for a fiscal
4 year that remain unobligated at the end of the fiscal year
5 available to carry out section 401A.

6 “(i) MATCHING ASSISTANCE.—An institution of
7 higher education may, from funds provided from private
8 sources, provide additional assistance to a student receiv-
9 ing a grant under this section, except that the total assist-
10 ance provided under this title to a student shall not exceed
11 the student’s cost of attendance.”.

12 **SEC. 7103. LOAN LIMITS.**

13 (a) FEDERAL INSURANCE LIMITS.—Section
14 425(a)(1)(A) of the Higher Education Act of 1965 (20
15 U.S.C. 1075(a)(1)(A)) is amended—

16 (1) in clause (i)(I), by striking “\$2,625” and
17 inserting “\$3,500”; and

18 (2) in clause (ii)(I), by striking “\$3,500” and
19 inserting “\$4,500”.

20 (b) GUARANTEE LIMITS.—Section 428(b)(1)(A) of
21 the Higher Education Act of 1965 (20 U.S.C.
22 1078(b)(1)(A)) is amended—

23 (1) in clause (i)(I), by striking “\$2,625” and
24 inserting “\$3,500”; and

1 (2) in clause (ii)(I), by striking “\$3,500” and
2 inserting “\$4,500”.

3 (c) FEDERAL PLUS LOANS.—Section 428B of the
4 Higher Education Act of 1965 (20 U.S.C. 1078–2) is
5 amended—

6 (1) in subsection (a)(1)—

7 (A) in the matter preceding subparagraph
8 (A), by striking “Parents” and inserting “A
9 graduate or professional student or the par-
10 ents”;

11 (B) in subparagraph (A), by striking “the
12 parents” and inserting “the graduate or profes-
13 sional student or the parents”; and

14 (C) in subparagraph (B), by striking “the
15 parents” and inserting “the graduate or profes-
16 sional student or the parents”;

17 (2) in subsection (b), by striking “any parent”
18 and inserting “any graduate or professional student
19 or any parent”;

20 (3) in subsection (c)(2), by striking “parent”
21 and inserting “graduate or professional student or
22 parent”; and

23 (4) in subsection (d)(1), by striking “the par-
24 ent” and inserting “the graduate or professional stu-
25 dent or the parent”.

1 (d) UNSUBSIDIZED STAFFORD LOANS FOR GRAD-
2 UATE OR PROFESSIONAL STUDENTS.—Section
3 428H(d)(2) of the Higher Education Act of 1965 (20
4 U.S.C. 1078–8(d)(2)) is amended—

5 (1) in subparagraph (C), by striking “\$10,000”
6 and inserting “\$12,000”; and

7 (2) in subparagraph (D)—

8 (A) in clause (i), by striking “\$5,000” and
9 inserting “\$7,000”; and

10 (B) in clause (ii), by striking “\$5,000”
11 and inserting “\$7,000”.

12 **SEC. 7104. PLUS LOAN INTEREST RATES AND ZERO SPE-**
13 **CIAL ALLOWANCE PAYMENT.**

14 (a) PLUS LOANS.—Section 427A(l)(2) of the Higher
15 Education Act of 1965 (20 U.S.C. 1077a(l)(2)) is amend-
16 ed by striking “7.9 percent” and inserting “8.5 percent”.

17 (b) CONFORMING AMENDMENTS FOR SPECIAL AL-
18 LOWANCES.—

19 (1) AMENDMENTS.—Subparagraph (I) of sec-
20 tion 438(b)(2) of the Higher Education Act of 1965
21 (20 U.S.C. 1087–1(b)(2)) is amended—

22 (A) in clause (iv), by striking “, subject to
23 clause (vi) of this subparagraph”;

1 (B) in clause (v), by striking “July 1,
2 2006” each place it appears and inserting
3 “April 1, 2006”; and

4 (C) by striking clauses (vi) and (vii) and
5 inserting the following:

6 “(vi) RECAPTURE OF EXCESS INTER-
7 EST.—

8 “(I) EXCESS CREDITED.—With
9 respect to a loan on which the applica-
10 ble interest rate is determined under
11 subsection (k) or (l) of section 427A
12 and for which the first disbursement
13 of principal is made on or after April
14 1, 2006, if the applicable interest rate
15 for any 3-month period exceeds the
16 special allowance support level appli-
17 cable to such loan under this subpara-
18 graph for such period, then an adjust-
19 ment shall be made by calculating the
20 excess interest in the amount com-
21 puted under subclause (II) of this
22 clause, and by crediting the excess in-
23 terest to the Government not less
24 often than annually.

1 “(II) CALCULATION OF EX-
2 CESS.—The amount of any adjust-
3 ment of interest on a loan to be made
4 under this subsection for any quarter
5 shall be equal to—

6 “(aa) the applicable interest
7 rate minus the special allowance
8 support level determined under
9 this subparagraph; multiplied by

10 “(bb) the average daily prin-
11 cipal balance of the loan (not in-
12 cluding unearned interest added
13 to principal) during such cal-
14 endar quarter; divided by

15 “(cc) four.

16 “(III) SPECIAL ALLOWANCE SUP-
17 PORT LEVEL.—For purposes of this
18 clause, the term ‘special allowance
19 support level’ means, for any loan, a
20 number expressed as a percentage
21 equal to the sum of the rates deter-
22 mined under subclauses (I) and (III)
23 of clause (i), and applying any substi-
24 tution rules applicable to such loan

1 under clauses (ii), (iii), and (iv) in de-
2 termining such sum.”.

3 (2) **EFFECTIVE DATE.**—The amendments made
4 by this subsection shall not apply with respect to
5 any special allowance payment made under section
6 438 of the Higher Education Act of 1965 (20 U.S.C.
7 1087–1) before April 1, 2006.

8 **SEC. 7105. REDUCTION OF LENDER INSURANCE REIM-**
9 **BURSEMENT RATES.**

10 (a) **AMENDMENT.**—Subparagraph (G) of section
11 428(b)(1) of the Higher Education Act of 1965 (20
12 U.S.C. 1078(b)(1)) is amended to read as follows:

13 “(G) insures 97 percent of the unpaid
14 principal of loans insured under the program;”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 subsection (a) shall apply with respect to any loan made,
17 insured, or guaranteed under part B of title IV of the
18 Higher Education Act of 1965 (20 U.S.C. 1071 et seq.)
19 for which the first disbursement is made on or after Janu-
20 ary 1, 2006.

21 **SEC. 7106. GUARANTY AGENCY ORIGINATION FEE.**

22 (a) **AMENDMENT.**—Section 428(b)(1)(H) of the
23 Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H))
24 is amended to read as follows:

1 “(I) is serving on active duty
2 during a war or other military oper-
3 ation or national emergency; or

4 “(II) is performing qualifying
5 National Guard duty during a war or
6 other military operation or national
7 emergency; or”.

8 (b) DIRECT LOANS.—Section 455(f)(2) of the Higher
9 Education Act of 1965 (20 U.S.C. 1087e(f)(2)) is amend-
10 ed—

11 (1) by redesignating subparagraph (C) as sub-
12 paragraph (D); and

13 (2) by inserting after subparagraph (B) the fol-
14 lowing new subparagraph:

15 “(C) not in excess of 3 years during which
16 the borrower—

17 “(i) is serving on active duty during a
18 war or other military operation or national
19 emergency; or

20 “(ii) is performing qualifying National
21 Guard duty during a war or other military
22 operation or national emergency; or”.

23 (c) PERKINS LOANS.—Section 464(c)(2)(A) of the
24 Higher Education Act of 1965 (20 U.S.C.
25 1087dd(c)(2)(A)) is amended—

1 (1) by redesignating clauses (iii) and (iv) as
2 clauses (iv) and (v), respectively; and

3 (2) by inserting after clause (ii) the following
4 new clause:

5 “(iii) not in excess of 3 years during
6 which the borrower—

7 “(I) is serving on active duty
8 during a war or other military oper-
9 ation or national emergency; or

10 “(II) is performing qualifying
11 National Guard duty during a war or
12 other military operation or national
13 emergency;”.

14 (d) DEFINITIONS.—Section 481 of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1088) is amended by add-
16 ing at the end the following new subsection:

17 “(d) DEFINITIONS FOR MILITARY DEFERMENTS.—
18 For purposes of parts B, D, and E of this title:

19 “(1) ACTIVE DUTY.—The term ‘active duty’ has
20 the meaning given such term in section 101(d)(1) of
21 title 10, United States Code, except that such term
22 does not include active duty for training or attend-
23 ance at a service school.

24 “(2) MILITARY OPERATION.—The term ‘mili-
25 tary operation’ means a contingency operation as

1 such term is defined in section 101(a)(13) of title
2 10, United States Code.

3 “(3) NATIONAL EMERGENCY.—The term ‘na-
4 tional emergency’ means the national emergency by
5 reason of certain terrorist attacks declared by the
6 President on September 14, 2001, or subsequent na-
7 tional emergencies declared by the President by rea-
8 son of terrorist attacks.

9 “(4) SERVING ON ACTIVE DUTY.—The term
10 ‘serving on active duty during a war or other mili-
11 tary operation or national emergency’ means service
12 by an individual who is—

13 “(A) a Reserve of an Armed Force ordered
14 to active duty under section 12301(a),
15 12301(g), 12302, 12304, or 12306 of title 10,
16 United States Code, or any retired member of
17 an Armed Force ordered to active duty under
18 section 688 of such title, for service in connec-
19 tion with a war or other military operation or
20 national emergency, regardless of the location
21 at which such active duty service is performed;
22 and

23 “(B) any other member of an Armed Force
24 on active duty in connection with such emer-
25 gency or subsequent actions or conditions who

1 has been assigned to a duty station at a loca-
2 tion other than the location at which such mem-
3 ber is normally assigned.

4 “(5) QUALIFYING NATIONAL GUARD DUTY.—
5 The term ‘qualifying National Guard duty during a
6 war or other military operation or national emer-
7 gency’ means service as a member of the National
8 Guard on full-time National Guard duty (as defined
9 in section 101(d)(5) of title 10, United States Code)
10 under a call to active service authorized by the
11 President or the Secretary of Defense for a period
12 of more than 30 consecutive days under section
13 502(f) of title 32, United States Code, in connection
14 with a war, other military operation, or a national
15 emergency declared by the President and supported
16 by Federal funds.”.

17 (e) RULE OF CONSTRUCTION.—Nothing in the
18 amendments made by this section shall be construed to
19 authorize any refunding of any repayment of a loan.

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to loans for which the
22 first disbursement is made on or after July 1, 2001.

23 **SEC. 7108. RECOVERY THROUGH CONSOLIDATION.**

24 Section 428(c) of the Higher Education Act of 1965
25 (20 U.S.C 1078(c)) is amended—

1 (1) in paragraph (2)(A)—

2 (A) by inserting “(i)” after “including”;

3 and

4 (B) by inserting before the semicolon at

5 the end the following: “and (ii) requirements es-

6 tablishing procedures to preclude consolidation

7 lending from being an excessive proportion of

8 guaranty agency recoveries on defaulted loans

9 under this part”;

10 (2) in paragraph (2)(D), by striking “para-

11 graph (6)” and inserting “paragraph (6)(A)”;

12 (3) in paragraph (6)—

13 (A) by inserting “(A)” before “For the

14 purposes of paragraph (2)(D),”;

15 (B) by redesignating subparagraphs (A)

16 and (B) as clauses (i) and (ii), respectively; and

17 (C) by adding at the end the following new

18 subparagraphs:

19 “(B) GUARANTY AGENCY OBLIGATIONS.—A

20 guaranty agency shall—

21 “(i) on or after October 1, 2006—

22 “(I) not charge the borrower collec-

23 tion costs in an amount in excess of 18.5

24 percent of the outstanding principal and

25 interest of a defaulted loan that is paid off

1 through consolidation by the borrower
2 under this title; and

3 “(II) remit to the Secretary a portion
4 of the collection charge under subclause (I)
5 equal to 8.5 percent of the outstanding
6 principal and interest of such defaulted
7 loan; and

8 “(ii) on and after October 1, 2009, remit
9 to the Secretary the entire amount charged
10 under clause (i)(I) with respect to each de-
11 faulted loan that is paid off with excess consoli-
12 dation proceeds.

13 “(C) EXCESS CONSOLIDATION PRO-
14 CEEDS.—For purposes of subparagraph (B),
15 the term ‘excess consolidation proceeds’ means,
16 with respect to any guaranty agency for any
17 Federal fiscal year beginning on or after Octo-
18 ber 1, 2009, the proceeds of consolidation of de-
19 faulted loans under this title that exceed 45
20 percent of the agency’s total collections on de-
21 faulted loans in such Federal fiscal year.”.

22 **SEC. 7109. SINGLE HOLDER RULE.**

23 Subparagraph (A) of section 428C(b)(1) of the High-
24 er Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is

1 amended by striking “and (i)” and all that follows through
2 “so selected for consolidation”).

3 **SEC. 7110. DEFAULT REDUCTION PROGRAM.**

4 Section 428F(a)(1) of the Higher Education Act of
5 1965 (20 U.S.C. 1078-6(a)(1)) is amended—

6 (1) in subparagraph (A), by striking “consecu-
7 tive payments for 12 months” and inserting “9 pay-
8 ments made within 20 days of the due date during
9 10 consecutive months”;

10 (2) by redesignating subparagraph (C) as sub-
11 paragraph (D); and

12 (3) by inserting after subparagraph (B) the fol-
13 lowing new subparagraph:

14 “(C) A guaranty agency may charge the
15 borrower and retain collection costs in an
16 amount not to exceed 18.5 percent of the out-
17 standing principal and interest at the time of
18 sale of a loan rehabilitated under subparagraph
19 (A).”.

20 **SEC. 7111. REQUIREMENTS FOR DISBURSEMENTS OF STU-
21 DENT LOANS.**

22 Section 428G of the Higher Education Act of 1965
23 (20 U.S.C. 1078–7) is amended—

24 (1) in subsection (a)(3), by adding at the end
25 the following: “Notwithstanding section 422(d) of

1 the Higher Education Amendments of 1998, this
2 paragraph shall be effective beginning on the date of
3 enactment of the Higher Education Amendments of
4 2005.”; and

5 (2) in subsection (b)(1), by adding at the end
6 the following: “Notwithstanding section 422(d) of
7 the Higher Education Amendments of 1998, the sec-
8 ond sentence of this paragraph shall be effective be-
9 ginning on the date of enactment of the Higher
10 Education Amendments of 2005.”.

11 **SEC. 7112. SPECIAL INSURANCE AND REINSURANCE RULES.**

12 (a) REPEAL.—Section 428I of the Higher Education
13 Act of 1965 (20 U.S.C. 1078–9) is repealed.

14 (b) CONFORMING AMENDMENTS.—Part A of title IV
15 of the Higher Education Act of 1965 (20 U.S.C.1070 et
16 seq.) is amended—

17 (1) in section 428(e)(1)—

18 (A) by striking subparagraph (D); and

19 (B) by redesignating subparagraphs (E)
20 and (F) as subparagraphs (D) and (E), respec-
21 tively; and

22 (2) in section 438(b)(5), by striking the matter
23 following subparagraph (B).

1 **SEC. 7113. SCHOOL AS LENDER MORATORIUM.**

2 Section 435(d)(2) of the Higher Education Act of
3 1965 (20 U.S.C. 1085(d)(2)) is amended—

4 (1) in subparagraph (E), by striking “and”
5 after the semicolon; and

6 (2) by inserting before the matter following
7 subparagraph (F) (as amended by section 7390) the
8 following:

9 “(G) shall have met the requirements of
10 subparagraphs (A) through (F), and made
11 loans under this part, on or before August 31,
12 2005;

13 “(H) shall hold each loan the eligible insti-
14 tution makes under this part to a student en-
15 rolled at the eligible institution until the stu-
16 dent enters into a grace period described in sec-
17 tion 427(a)(2)(B) or 428(b)(7);

18 “(I) shall use the proceeds from the sale of
19 a loan made under this part, for need based
20 grant aid programs, except that such pro-
21 ceeds—

22 “(i) shall not be used to provide a
23 grant to a student for an academic year in
24 an amount that is more than the student’s
25 cost of attendance for the academic year;
26 and

1 “(ii) shall supplement and not sup-
2 plant other Federal, State, and institu-
3 tional grant aid; and

4 “(J) shall not be a foundation or alumni
5 organization;”.

6 **SEC. 7114. PERMANENT REDUCTION OF SPECIAL ALLOW-**
7 **ANCE PAYMENTS FOR LOANS FROM THE PRO-**
8 **CEEDS OF TAX EXEMPT ISSUES.**

9 (a) **TECHNICAL CLARIFICATION.**—The matter pre-
10 ceding paragraph (1) of section 2 of the Taxpayer-Teacher
11 Protection Act of 2004 (Public Law 108–409; 118 Stat.
12 2299) is amended by inserting “of the Higher Education
13 Act of 1965” after “Section 438(b)(2)(B)”. The amend-
14 ment made by the preceding sentence shall be effective as
15 if enacted on October 30, 2004.

16 (b) **AMENDMENT.**—Section 438(b)(2)(B) of the
17 Higher Education Act of 1965 (20 U.S.C. 1087–
18 1(b)(2)(B)) is amended—

19 (1) in clause (iv), by striking “and before Janu-
20 ary 1, 2006,”; and

21 (2) in clause (v)(II)—

22 (A) in item (aa), by striking “and before
23 January 1, 2006,”;

24 (B) in item (bb), by striking “and before
25 January 1, 2006,”; and

1 (C) in item (cc), by striking “and before
2 January 1, 2006,”.

3 **SEC. 7115. SPECIAL ALLOWANCES.**

4 (a) **ORIGINATION FEES.**—Paragraph (2) of section
5 438(c) of the Higher Education Act of 1965 (20 U.S.C.
6 1087–1(c)) is amended—

7 (1) by striking the designation and heading of
8 such paragraph and inserting the following:

9 “(2) **AMOUNT OF ORIGINATION FEES.**—

10 “(A) **IN GENERAL.**—”; and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(B) **SUBSEQUENT REDUCTIONS.**—Sub-
14 paragraph (A) shall be applied to loans made
15 under this part (other than loans made under
16 sections 428C and 439(o)) by substituting ‘2.50
17 percent’ for ‘3.0 percent’ with respect to loans
18 for which the first disbursement of principal is
19 made on or after July 1, 2007.”.

20 (b) **LOAN FEES FROM LENDERS.**—

21 (1) **AMENDMENT.**—Paragraph (2) of section
22 438(d)(2) of the Higher Education Act of 1965 (20
23 U.S.C. 1087–1(d)) is amended to read as follows:

24 “(2) **AMOUNT OF LOAN FEES.**—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), with respect to any loan
3 made under this part for which the first dis-
4 bursement was made on or after October 1,
5 1993, the amount of the loan fee that shall be
6 deducted under paragraph (1) shall be equal to
7 0.50 percent of the principal amount of the
8 loan.

9 “(B) CONSOLIDATION LOANS.—With re-
10 spect to any loan made under section 428C on
11 or after April 1, 2006, the amount of the loan
12 fee that shall be deducted under paragraph (1)
13 shall be equal to 1.0 percent of the principal
14 amount of the loan.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply with respect to any
17 loan made, insured, or guaranteed under part B of
18 title IV of the Higher Education Act of 1965 (20
19 U.S.C. 1071 et seq.) for which the first disburse-
20 ment is made on or after April 1, 2006.

21 **SEC. 7116. ORIGINATION FEE.**

22 Section 455(c) of the Higher Education Act of 1965
23 (20 U.S.C. 1087e(c)) is amended—

24 (1) by striking “shall” and inserting “is author-
25 ized to”; and

1 (2) by striking “4.0 percent of the principal
2 amount of loan” and inserting “not less than 1 per-
3 cent and not more than 3 percent of the principal
4 amount of the loan, except that the Secretary shall
5 charge the borrower of a Federal Direct PLUS Loan
6 an origination fee of 4.0 percent of the principal
7 amount of the loan. Beginning on July 1, 2007, the
8 preceding sentence shall be applied by substituting
9 ‘2.5 percent’ for ‘3 percent’”.

10 **SEC. 7117. INCOME CONTINGENT REPAYMENT FOR PUBLIC**
11 **SECTOR EMPLOYEES.**

12 Section 455(e) of the Higher Education Act of 1965
13 (20 U.S.C. 1087e(e)) is amended by adding at the end
14 the following:

15 “(7) REPAYMENT PLAN FOR PUBLIC SECTOR
16 EMPLOYEES.—

17 “(A) IN GENERAL.—The Secretary shall
18 forgive the balance due on any loan made under
19 this part or section 428C(b)(5) for a bor-
20 rower—

21 “(i) who has made 120 payments on
22 such loan pursuant to income contingent
23 repayment; and

24 “(ii) who is employed, and was em-
25 ployed for the 10-year period in which the

1 borrower made the 120 payments de-
2 scribed in clause (i), in a public sector job.

3 “(B) PUBLIC SECTOR JOB.—In this para-
4 graph, the term ‘public sector job’ means a full-
5 time job in emergency management, govern-
6 ment, public safety, law enforcement, public
7 health, education (including early childhood
8 education), or public interest legal services (in-
9 cluding prosecution or public defense).

10 “(8) RETURN TO STANDARD REPAYMENT.—A
11 borrower who is repaying a loan made under this
12 part pursuant to income contingent repayment may
13 choose, at any time, to terminate repayment pursu-
14 ant to income contingent repayment and repay such
15 loan under the standard repayment plan.”.

16 **SEC. 7118. FAMILY CONTRIBUTION FOR DEPENDENT STU-**
17 **DENTS.**

18 (a) AMENDMENTS.—Section 475 of the Higher Edu-
19 cation Act of 1965 (20 U.S.C. 1087oo) is amended—

20 (1) in subsection (g)(2)(D), by striking
21 “\$2,200” and inserting “\$3,000”; and

22 (2) in subsection (h), by striking “35” and in-
23 serting “20”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall apply with respect to determinations

1 of need for periods of enrollment beginning on or after
2 July 1, 2007.

3 **SEC. 7119. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**
4 **DENTS WITHOUT DEPENDENTS OTHER THAN**
5 **A SPOUSE.**

6 (a) **AMENDMENTS.**—Section 476 of the Higher Edu-
7 cation Act of 1965 (20 U.S.C.1087pp) is amended—

8 (1) in subsection (b)(1)(A)(iv)—

9 (A) in subclause (I), by striking “\$5,000”
10 and inserting “\$6,050”;

11 (B) in subclause (II), by striking “\$5,000”
12 and inserting “\$6,050”; and

13 (C) in subclause (III), by striking
14 “\$8,000” and inserting “\$9,700”; and

15 (2) in subsection (c)(4), by striking “35” and
16 inserting “20”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 subsection (a) shall apply with respect to determinations
19 of need for periods of enrollment beginning on or after
20 July 1, 2007.

1 **SEC. 7120. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**
2 **DENTS WITH DEPENDENTS OTHER THAN A**
3 **SPOUSE.**

4 (a) AMENDMENT.—Section 477(c)(4) of the Higher
5 Education Act of 1965 (20 U.S.C. 1087qq(c)(4)) is
6 amended by striking “12” and inserting “7”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply with respect to determinations
9 of need for periods of enrollment beginning on or after
10 July 1, 2007.

11 **SEC. 7121. REGULATIONS; UPDATED TABLES.**

12 Section 478(b) of the Higher Education Act of 1965
13 (20 U.S.C. 1087rr(b)) is amended—

14 (1) in paragraph (1), by adding at the end the
15 following: “For the 2007–2008 academic year, the
16 Secretary shall revise the tables in accordance with
17 this paragraph, except that the Secretary shall in-
18 crease the amounts contained in the table in section
19 477(b)(4) by a percentage equal to the greater of
20 the estimated percentage increase in the Consumer
21 Price Index (as determined under the preceding sen-
22 tence) or 5 percent.”; and

23 (2) in paragraph (2), by striking “2000–2001”
24 and inserting “2007–2008”.

1 **SEC. 7122. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO**
2 **IMPROVEMENTS.**

3 (a) AMENDMENTS.—Section 479 of the Higher Edu-
4 cation Act of 1965 (20 U.S.C. 1087ss) is amended—

5 (1) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) in subparagraph (A), by striking
8 clause (i) and inserting the following:

9 “(i) the student’s parents—

10 “(I) file, or are eligible to file, a
11 form described in paragraph (3);

12 “(II) certify that the parents are
13 not required to file a Federal income
14 tax return; or

15 “(III) received, or the student re-
16 ceived, benefits at some time during
17 the previous 12-month period under a
18 means-tested Federal benefit program
19 as defined under subsection (d); and”;
20 and

21 (ii) in subparagraph (B), by striking
22 clause (i) and inserting the following:

23 “(i) the student (and the student’s
24 spouse, if any)—

25 “(I) files, or is eligible to 1 file,
26 a form described in paragraph (3);

1 “(II) certifies that the student
2 (and the student’s spouse, if any) is
3 not required to file a Federal income
4 tax return; or

5 “(III) received benefits at some
6 time during the previous 12-month
7 period under a means-tested Federal
8 benefit program as defined under sub-
9 section (d); and”;

10 (B) in the matter preceding subparagraph
11 (A) of paragraph (3), by striking “A student or
12 family files a form described in this subsection,
13 or subsection (c), as the case maybe, if the stu-
14 dent or family, respectively, files” and inserting
15 “In the case of an independent student, the stu-
16 dent, or in the case of a dependent student, the
17 family, files a form described in this subsection,
18 or subsection (c), as the case may be, if the stu-
19 dent or family, as appropriate, files”;

20 (2) in subsection (c)—

21 (A) in paragraph (1)—

22 (i) by striking subparagraph (A) and
23 inserting the following:

24 “(A) the student’s parents—

1 “(i) file, or are eligible to file, a form
2 described in subsection (b)(3);

3 “(ii) certify that the parents are not
4 required to file a Federal income tax re-
5 turn; or

6 “(iii) received, or the student received,
7 benefits at some time during the previous
8 12-month period under a means-tested
9 Federal benefit program as defined under
10 subsection (d); and”;

11 (ii) by striking subparagraph (B) and
12 inserting the following:

13 “(B) the sum of the adjusted gross income
14 of the parents is less than or equal to \$20,000;
15 or”;

16 (B) in paragraph (2)—

17 (i) by striking subparagraph (A) and
18 inserting the following:

19 “(A) the student (and the student’s
20 spouse, if any)—

21 “(i) files, or is eligible to file, a form
22 described in subsection (b)(3);

23 “(ii) certifies that the student (and
24 the student’s spouse, if any) is not re-

1 required to file a Federal income tax return;
2 or

3 “(iii) received benefits at some time
4 during the previous 12-month period under
5 a means-tested Federal benefit program as
6 defined under subsection (d); and”;

7 (ii) by striking subparagraph (B) and
8 inserting the following:

9 “(B) the sum of the adjusted gross income
10 of the student and spouse (if appropriate) is
11 less than or equal to \$20,000.”; and

12 (3) by adding at the end the following:

13 “(d) DEFINITIONS.—In this section:

14 “(1) MEANS-TESTED FEDERAL BENEFIT PRO-
15 GRAM.—In this section, the term “means-tested
16 Federal benefit program” means a mandatory
17 spending program of the Federal Government, other
18 than a program under this title, in which eligibility
19 for the program’s benefits, or the amount of such
20 benefits, are determined on the basis of income or
21 resources of the individual or family seeking the ben-
22 efit, and may include such programs as—

23 “(A) the supplemental security income pro-
24 gram under title XVI of the Social Security Act
25 (42 U.S.C. 1381 et seq.);

1 “(B) the food stamp program under the
2 Food Stamp Act of 1977 (7 U.S.C. 2011 et
3 seq.);

4 “(C) the free and reduced price school
5 lunch program established under the Richard
6 B. Russell National School Lunch Act (42
7 U.S.C. 1751 et seq.);

8 “(D) the program of block grants for
9 States for temporary assistance for needy fami-
10 lies established under part A of title IV of the
11 Social Security Act (42 U.S.C. 601 et seq.);

12 “(E) the special supplemental nutrition
13 program for women, infants, and children es-
14 tablished by section 17 of the Child Nutrition
15 Act of 1966 (42 U.S.C. 1786); and

16 “(F) other programs identified by the Sec-
17 retary.”.

18 (b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

19 (1) ELIGIBILITY GUIDELINES.—The Secretary
20 of Education shall regularly evaluate the impact of
21 the eligibility guidelines in subsections (b)(1)(A)(i),
22 (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479
23 of the Higher Education Act of 1965 (20 U.S.C.
24 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and
25 (c)(2)(A)).

1 (2) MEANS-TESTED FEDERAL BENEFIT PRO-
2 GRAM.—For each 3-year period, the Secretary of
3 Education shall evaluate the impact of including the
4 receipt of benefits by a student or parent under a
5 means-tested Federal benefit program (as defined in
6 section 479(d) of the Higher Education Act of 1965
7 (20 U.S.C. 1087ss(d)) as a factor in determining eli-
8 gibility under subsections (b) and (c) of section 479
9 of the Higher Education Act of 1965 (20 U.S.C.
10 1087ss(b) and (c)).

11 **SEC. 7123. LOAN FORGIVENESS FOR TEACHERS.**

12 Section 3(b)(3) of the Taxpayer-Teacher Protection
13 Act of 2004 (20 U.S.C. 1078–10 note) is amended by
14 striking “, and before October 1, 2005”.

15 **SEC. 7124. EFFECTIVE DATE.**

16 Except as otherwise provided in this chapter or the
17 amendments made by this chapter, the amendments made
18 by this chapter shall take effect on July 1, 2006.

19 **CHAPTER 2—HURRICANE KATRINA**
20 **HIGHER EDUCATION RECOVERY**

21 **SEC. 7151. SHORT TITLE.**

22 This chapter may be cited as the “Hurricane Katrina
23 Higher Education Recovery Act”.

24 **SEC. 7152. DEFINITIONS.**

25 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.—

1 (A) IN GENERAL.—The term “affected in-
2 stitution” means an institution of higher edu-
3 cation, as defined in section 101 or 102 of the
4 Higher Education Act of 1965 (20 U.S.C.
5 1001, 1002), that—

6 (i) is located in an area in which a
7 major disaster has been declared in accord-
8 ance with section 401 of the Robert T.
9 Stafford Disaster Relief and Emergency
10 Assistance Act due to the effects of Hurri-
11 cane Katrina; and

12 (ii) is impacted by Hurricane Katrina.

13 (B) LENGTH OF TIME.—In determining
14 eligibility for assistance under this chapter, the
15 Secretary, using consistent, objective criteria,
16 shall determine the time period for which an in-
17 stitution of higher education is an affected in-
18 stitution.

19 (C) SPECIAL RULE.—An organizational
20 unit of an affected institution that is not im-
21 pacted by Hurricane Katrina shall not be con-
22 sidered as part of such affected institution for
23 purposes of receiving assistance under this
24 chapter.

1 (3) AFFECTED STUDENT.—The term “affected
2 student” means a student who was enrolled on Au-
3 gust 29, 2005 in an affected institution.

4 (4) DISTANCE EDUCATION.—

5 (A) IN GENERAL.—The term “distance
6 education” means a course or program that
7 uses 1 or more of the technologies described in
8 subparagraph (B) to—

9 (i) deliver instruction to students who
10 are separated from the instructor; and

11 (ii) support regular and substantive
12 interaction between the students and the
13 instructor, either synchronously or asyn-
14 chronously.

15 (B) INCLUSIONS.—For the purposes of
16 subparagraph (A), the technologies used may
17 include—

18 (i) the Internet;

19 (ii) one-way and two-way trans-
20 missions through open broadcast, closed
21 circuit, cable, microwave, broadband lines,
22 fiber optics, satellite, or wireless commu-
23 nications devices;

24 (iii) audio conferencing; or

1 (iv) video cassette, DVDs, and CD-
2 ROMs, provided that they are used in a
3 course in conjunction with the technologies
4 listed in clauses (i) through (iii).

5 (5) SECRETARY.—The term “Secretary” means
6 the Secretary of Education.

7 **SEC. 7153. WAIVER AUTHORITY AND MODIFICATIONS TO**
8 **CERTAIN PROVISIONS OF THE HIGHER EDU-**
9 **CATION ACT OF 1965.**

10 (a) WAIVER OF INSTITUTIONAL REPAYMENT.—Not-
11 withstanding any other provision of law, including require-
12 ments related to cash management, an affected institution
13 shall not be required to return any funds received by the
14 affected institution for, or on behalf of, its students under
15 subparts 1 and 3 of part A and parts B, C, D, and E
16 of title IV of the Higher Education Act of 1965 (20 U.S.C.
17 1070, 1070b et seq., 1071 et seq., 1087a et seq., 1087aa
18 et seq., 42 U.S.C. 2751 et seq.) during the 2005–2006
19 academic year.

20 (b) WAIVER OF STUDENT RETURN OF ASSIST-
21 ANCE.—Notwithstanding any other provision of law, an
22 affected student who, as of the date of enactment of this
23 Act, received assistance under subpart 1 or 3 of part A
24 or parts B, C, D, or E of title IV of the Higher Education
25 Act of 1965 for attendance at an affected institution of

1 higher education during the 2005–2006 academic year,
2 shall not be required to return such assistance.

3 (c) AFFECTED STUDENTS WHO DO NOT ENROLL IN
4 ANOTHER INSTITUTION AND BORROWERS IN GRACE PE-
5 RIODS OR DEFERMENT.—With respect to a loan made, in-
6 sured, or guaranteed under part B, D, or E of title IV
7 of the Higher Education Act of 1965 (20 U.S.C. 1071
8 et seq., 1087a et seq., 1087aa et seq.)—

9 (1) an affected student who does not enroll in
10 another institution of higher education shall be re-
11 tained in in-school status during the period begin-
12 ning on August 22, 2005, and ending on June 30,
13 2006; and

14 (2) a borrower in a grace period or in
15 deferment as of August 22, 2005 who satisfies the
16 requirement described in clause (i) or clause (ii) of
17 section 201(1)(B) shall be retained in such status,
18 without documentation or action by the borrower,
19 until June 30, 2006.

20 (d) DISCHARGE OR CANCELLATION OF LOANS.—The
21 Secretary shall—

22 (1) discharge all loan amounts under parts B
23 and D of title IV of the Higher Education Act of
24 1965 (20 U.S.C. 1071 et seq., 1087a et seq.) dis-
25 bursed to, or on behalf of, an affected student for

1 attendance at an affected institution of higher edu-
2 cation during the 2005–2006 academic year;

3 (2) reimburse lenders for the purpose of dis-
4 charging any loan amounts disbursed to, or on be-
5 half of, a student under part B of title IV of the
6 Higher Education Act of 1965 (20 U.S.C. 1071 et
7 seq.), for attendance at an affected institution of
8 higher education during the 2005–2006 academic
9 year; and

10 (3) cancel any loan under part E of title IV of
11 the Higher Education Act of 1965 (20 U.S.C.
12 1087aa et seq.) disbursed to a student for attend-
13 ance at an affected institution of higher education
14 during the 2005–2006 academic year.

15 (e) AGGREGATE AND ANNUAL LIMITS.—In the case
16 of an affected student, any grant or loan assistance under
17 title IV of the Higher Education Act of 1965 (20 U.S.C.
18 1070 et seq.) that such student received, or was to have
19 received, for a program of study at an affected institution
20 of higher education during the 2005–2006 academic year
21 shall not count against such student’s annual or aggregate
22 grant or loan limits for receipt of aid under such title.

23 (f) FORBEARANCE.—Notwithstanding the provisions
24 of part B, D, or E of title IV of the Higher Education
25 Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,

1 1087aa et seq.), a lender, the Secretary, or an institution
2 of higher education is authorized to provide not more than
3 1 year of forbearance to an affected borrower without doc-
4 umentation.

5 (g) PROFESSIONAL JUDGMENT.—A financial aid ad-
6 ministrator shall be considered to be making an adjust-
7 ment in accordance with section 479A(a) of the Higher
8 Education Act of 1965 (20 U.S.C. 1087tt(a)) if the finan-
9 cial aid administrator makes the adjustment with respect
10 to the calculation of the expected student or parent con-
11 tribution (or both) for an affected student, or for a stu-
12 dent or a parent who resides or resided on August 22,
13 2005, or was employed on August 22, 2005, in an area
14 in which a major disaster has been declared in accordance
15 with section 401 of the Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act due to the effects of Hurri-
17 cane Katrina. The financial aid administrator shall ade-
18 quately document the need for the adjustment.

19 (h) MODIFICATION OF PART A OF TITLE II GRANTS
20 AUTHORIZED.—The Secretary is authorized to approve
21 modifications to the requirements for Teacher Quality En-
22 hancement Grants for States and Partnerships under part
23 A of title II of the Higher Education Act of 1965 (20
24 U.S.C. 1021 et seq.), at the request of the grantee—

1 (1) to assist States and local educational agen-
2 cies to recruit and retain highly qualified teachers in
3 a school district located in an area in which a major
4 disaster has been declared in accordance with section
5 401 of the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act due to the effects of Hur-
7 ricane Katrina; and

8 (2) to assist institutions of higher education, as
9 defined in section 101 of such Act (20 U.S.C. 1001),
10 located in such area to recruit and retain faculty
11 necessary to prepare teachers and provide profes-
12 sional development.

13 (i) WAIVER AUTHORITY TO MODIFY AUTHORIZED
14 USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III,
15 AND OTHER GRANTS.—The Secretary is authorized to
16 modify the required and allowable uses of funds under
17 chapters 1 and 2 of subpart 2 of part A of title IV of
18 the Higher Education Act of 1965 (20 U.S.C. 1070a et
19 seq., 1070a–21 et seq.), under part A or B of title III
20 (20 U.S.C. 1057 et seq., 1060 et seq.), and under any
21 other competitive grant program, at the request of an af-
22 fected institution or other grantee, with respect to affected
23 institutions and other grantees located in an area in which
24 a major disaster has been declared in accordance with sec-
25 tion 401 of the Robert T. Stafford Disaster Relief and

1 Emergency Assistance Act due to the effects of Hurricane
2 Katrina.

3 (j) **AUTHORITY TO EXTEND OR WAIVE REPORTING**
4 **REQUIREMENTS UNDER SECTION 131(a).**—The Secretary
5 is authorized to extend reporting deadlines or waive re-
6 porting requirements under section 131(a) of the Higher
7 Education Act of 1965 (20 U.S.C. 1015(a)) for an af-
8 fected institution.

9 (k) **DISTANCE EDUCATION.**—The Secretary may
10 waive the restrictions of subparagraphs (A) and (B) of
11 section 102(a)(3) of the Higher Education Act of 1965
12 (20 U.S.C. 1002(a)(3)(A) and (B)) with respect to an in-
13 stitution of higher education, other than a foreign institu-
14 tion, that offers education or training programs through
15 distance education and is otherwise eligible to participate
16 in programs authorized under title IV of such Act (20
17 U.S.C. 1070 et seq.), if such institution exceeds such re-
18 strictions described in such subparagraphs due to the en-
19 rollment of affected students.

20 **SEC. 7154. GENERAL WAIVER AUTHORITY AND REQUIRED**
21 **CONSULTATION.**

22 (a) **WAIVER AUTHORITY.**—

23 (1) **IN GENERAL.**—Notwithstanding any other
24 provision of law, the Secretary may waive or modify
25 any statutory provision of the Higher Education Act

1 of 1965 (20 U.S.C. 1001 et seq.) or any regulation
2 implementing such Act as the Secretary determines
3 necessary in connection with a major disaster that
4 has been declared in accordance with section 401 of
5 the Robert T. Stafford Disaster Relief and Emer-
6 gency Assistance Act due to the effects of Hurricane
7 Katrina.

8 (2) ACTIONS AUTHORIZED.—In carrying out
9 paragraph (1), the Secretary is authorized to waive
10 or modify any provision described in paragraph (1)
11 as the Secretary determines necessary to ensure
12 that—

13 (A) administrative requirements placed on
14 affected students, affected borrowers, institu-
15 tions of higher education, lenders, guaranty
16 agencies and grantees are minimized to the ex-
17 tent possible without impairing the integrity of
18 the higher education programs under the High-
19 er Education Act of 1965, to ease the burden
20 on such participants; or

21 (B) institutions of higher education, lend-
22 ers, guaranty agencies, and other entities par-
23 ticipating in the student financial assistance
24 programs under title IV of the Higher Edu-
25 cation Act of 1965 (20 U.S.C. 1070 et seq.),

1 that serve an area in which a major disaster
2 has been declared in accordance with section
3 401 of the Robert T. Stafford Disaster Relief
4 and Emergency Assistance Act due to the ef-
5 fects of Hurricane Katrina, may be granted
6 temporary relief from requirements that are
7 rendered infeasible or unreasonable due to the
8 effects of Hurricane Katrina, including due dili-
9 gence requirements and reporting deadlines.

10 (b) CONSTRUCTION.—Nothing in this section shall be
11 construed to allow the Secretary to waive or modify any
12 applicable statutory or regulatory requirements prohib-
13 iting discrimination in a program or activity, or in employ-
14 ment or contracting, under existing law (in existence on
15 the date of the Secretary’s action).

16 (c) CONSULTATION.—Prior to granting any waiver or
17 modification under this section, the Secretary shall consult
18 with the Committee on Health, Education, Labor, and
19 Pensions and the Committee on Appropriations of the
20 Senate and the Committee on Education and the Work-
21 force and the Committee on Appropriations of the House
22 of Representatives with respect to waivers or modifications
23 under this section.

1 **SEC. 7155. NOTICE OF WAIVERS, MODIFICATIONS, OR EX-**
2 **TENSIONS.**

3 Notwithstanding section 437 of the General Edu-
4 cation Provisions Act (20 U.S.C. 1232) and section 553
5 of title 5, United States Code, the Secretary shall make
6 publicly available the waivers, modifications, or extensions
7 granted under section 7153 or 7154.

8 **SEC. 7156. REGULATORY REQUIREMENTS INAPPLICABLE.**

9 Sections 482(c) and 492 of the Higher Education Act
10 of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the
11 General Education Provisions Act (20 U.S.C. 1232), and
12 section 553 of title 5, United States Code, shall not apply
13 to this chapter.

14 **SEC. 7157. DEPARTMENT OF EDUCATION INSPECTOR GEN-**
15 **ERAL AUDIT AND REPORT.**

16 (a) **IN GENERAL.**—The Inspector General of the De-
17 partment of Education (referred to in this section as the
18 “Inspector General”) shall conduct an audit and investiga-
19 tion of each program carried out by the Department of
20 Education that includes response and recovery activities
21 related to Hurricane Katrina.

22 (b) **WEEKLY REPORT.**—Not less frequently than once
23 a week, the Inspector General shall provide a report to
24 the Committee on Health, Education, Labor, and Pen-
25 sions and the Committee on Appropriations of the Senate
26 and the Committee on Education and the Workforce and

1 the Committee on Appropriations of the House of Rep-
2 resentatives listing the audits and investigations initiated
3 pursuant to subsection (a).

4 (c) STATUS REPORT.—Not later than 6 months after
5 the date of enactment of this Act, and biannually there-
6 after until the audits and investigations described in sub-
7 section (a) are complete, the Inspector General shall re-
8 port to the Committee on Health, Education, Labor, and
9 Pensions and the Committee on Appropriations of the
10 Senate and the Committee on Education and the Work-
11 force and the Committee on Appropriations of the House
12 of Representatives on the full status of the activities of
13 the Inspector General under this section.

14 (d) COOPERATIVE VENTURES.—In carrying out this
15 section, the Inspector General is encouraged to enter into
16 cooperative ventures with Inspectors General of other Fed-
17 eral agencies.

18 **SEC. 7158. SUNSET PROVISION.**

19 Except as otherwise provided in this chapter, the pro-
20 visions of this chapter shall be effective for the period be-
21 ginning on the date of enactment of this Act and ending
22 on September 30, 2006.

1 **Subtitle B—Pension Benefit**
2 **Guaranty Corporation Premiums**

3 **SEC. 7201. AMENDMENTS TO THE EMPLOYEE RETIREMENT**
4 **INCOME SECURITY ACT OF 1974.**

5 (a) **FLAT-RATE PREMIUMS.—**

6 (1) **SINGLE-EMPLOYER PLANS.—**Section
7 4006(a)(3)(A)(i) of the Employee Retirement In-
8 come Security Act of 1974 (29 U.S.C.
9 1306(a)(3)(A)(i)) is amended to read as follows:

10 “(i) in the case of a single-employer plan, an
11 amount equal to—

12 “(I) for plan years beginning after Decem-
13 ber 31, 1990, and before January 1, 2006, \$19,
14 or

15 “(II) except as provided in subparagraph
16 (F), for plan years beginning after December
17 31, 2005, \$46.75,

18 plus the additional premium (if any) determined
19 under subparagraph (E) for each individual who is
20 a participant in such plan during the plan year;”.

21 (2) **MULTIEMPLOYER PLANS.—**Section
22 4006(a)(3)(A) of such Act (29 U.S.C.
23 1306(a)(3)(A)) is amended—

24 (A) in clause (iii), by—

1 (i) inserting “and before January 1,
2 2006,” after “Act of 1980,”; and

3 (ii) striking the period at the end and
4 inserting “, or”; and

5 (B) by adding at the end the following:

6 “(iv) in the case of a multiemployer
7 plan an amount equal to the following for
8 each individual who is a participant in
9 such plan during the applicable plan year:

10 “(I) \$8.00 for plan years begin-
11 ning in 2006.

12 “(II) For plan years after De-
13 cember 31, 2006, the amount deter-
14 mined under subparagraph (G).

15 (3) INDEXING OF FLAT-RATE PREMIUMS.—

16 (A) SINGLE-EMPLOYER PREMIUMS.—Sec-
17 tion 4006(a)(3) of such Act (29 U.S.C.
18 1306(a)(3)), as amended by this Act, is amend-
19 ed by adding at the end the following:

20 “(F) INDEXING OF SINGLE-EMPLOYER
21 FLAT-RATE PREMIUMS.—

22 “(i) IN GENERAL.—In the case of any
23 plan year beginning after 2006, the ad-
24 justed amount under clause (ii) shall be
25 substituted for the dollar amount under

1 clause (i)(II) of subparagraph (A), if such
2 adjusted amount is greater than such dol-
3 lar amount.

4 “(ii) ADJUSTED AMOUNT.—The ad-
5 justed amount for the dollar amount in
6 clause (i)(II) of subparagraph (A) for any
7 plan year is the product derived by multi-
8 plying such dollar amount by the ratio
9 of—

10 “(I) the national average wage
11 index (as defined in section 209(k)(1)
12 of the Social Security Act) for the
13 first of the 2 calendar years preceding
14 the calendar year in which the plan
15 year begins, to

16 “(II) the national average wage
17 index (as so defined) for 2004.

18 If the amount determined under this
19 clause is not a multiple of \$1, such product
20 shall be rounded to the nearest multiple of
21 \$1.”.

22 (B) MULTIEMPLOYER PREMIUMS—Section
23 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)),
24 as amended by this Act, is amended by adding
25 at the end the following:

1 “(G) INDEXING OF MULTIEmployer
2 FLAT-RATE PREMIUMS.—The amount deter-
3 mined under this subparagraph is the product
4 derived by multiplying \$8.00 by the ratio of—

5 “(i) the national average wage index
6 (as defined in section 209(k)(1) of the So-
7 cial Security Act) for the first of the 2 cal-
8 endar years preceding the calendar year in
9 which the plan year begins, to

10 “(ii) the national average wage index
11 (as defined in subparagraph (F)) for 2004.

12 If the amount determined under this clause is
13 not a multiple of \$1, such product shall be
14 rounded to the nearest multiple of \$1.”.

15 (b) PREMIUM RATE FOR CERTAIN TERMINATED SIN-
16 GLE-EMPLOYER PLANS.—Section 4006(a) of such Act (29
17 U.S.C. 1306(a)) is amended by adding at the end the fol-
18 lowing:

19 “(7) PREMIUM RATE FOR CERTAIN TERMI-
20 NATED SINGLE-EMPLOYER PLANS.—

21 “(A) IN GENERAL.—If there is a termi-
22 nation of a single-employer plan under clause
23 (ii) or (iii) of section 4041(c)(2)(B) or section
24 4042, there shall be payable to the corporation,
25 with respect to each applicable 12-month pe-

1 riod, a premium at a rate equal to \$1,250 mul-
2 tplied by the number of individuals who were
3 participants in the plan immediately before the
4 termination date. Such premium shall be in ad-
5 dition to any other premium under this section.

6 “(B) SPECIAL RULE FOR PLANS TERMI-
7 NATED IN BANKRUPTCY REORGANIZATION.—
8 Subparagraph (A) shall not apply to a single-
9 employer plan terminated under section
10 4041(c)(2)(B)(ii) or under section 4042 during
11 pendency of any bankruptcy reorganization pro-
12 ceeding under chapter 11 of title 11, United
13 States Code, (or under any similar law of a
14 State or political subdivision of a State) until
15 the plan sponsor emerges from bankruptcy.

16 “(C) APPLICABLE 12-MONTH PERIOD.—
17 For purposes of subparagraph (A)—

18 “(i) IN GENERAL.—The term ‘applica-
19 ble 12-month period’ means—

20 “(I) the 12-month period begin-
21 ning with the first month following
22 the month in which the termination
23 date occurs, and

1 “(II) each of the first two 12-
2 month periods immediately following
3 the period described in subclause (I).

4 “(ii) PLANS TERMINATED IN BANK-
5 RUPTCY REORGANIZATION.—In the case of
6 a plan described under subparagraph (B),
7 the 12-month period described in clause
8 (i)(I) shall be the 12-month period begin-
9 ning with the first month following the
10 month which includes the date the plan
11 sponsor emerges from bankruptcy.

12 “(D) COORDINATION WITH SECTION
13 4007.—For purposes of section 4007—

14 “(i) premiums under this paragraph
15 shall be due within 30 days after the be-
16 ginning of any applicable 12-month period,

17 “(ii) the fifth sentence of section
18 4007(a) shall not apply, and

19 “(iii) the designated payor under sec-
20 tion 4007(e)(1)(A) shall be the contrib-
21 uting sponsor immediately before the ter-
22 mination date.”.

23 (c) CONFORMING AMENDMENT.—Section
24 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is

1 amended by striking “subparagraph (A)(iii)” and insert-
2 ing “clause (iii) or (iv) of subparagraph (A)”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to plan years beginning after
6 December 31, 2005.

7 (2) SPECIAL RULE FOR PLANS TERMINATED IN
8 BANKRUPTCY.—The amendment made by subsection
9 (b) shall not apply to a termination of a single-em-
10 ployer plan that is terminated during the pendency
11 of any bankruptcy reorganization proceeding under
12 chapter 11 of title 11, United States Code (or under
13 any similar law of a State or political subdivision of
14 a State), if the proceeding is pursuant to a bank-
15 ruptcy filing occurring before October 18, 2005.

16 (3) SPECIAL RULE IF SUBSEQUENT SAVINGS
17 ENACTED.—The amendments made by this section
18 shall not take effect if, after the date of enactment
19 of this Act and before January 1, 2006, a Federal
20 law is enacted which—

21 (A) provides for decreases in Federal out-
22 lays which in the aggregate are not less than
23 the decreases in Federal outlays by reason of
24 the amendments made by this section; and

1 (B) specifically provides that such de-
2 creases are to be in lieu of the decreases in
3 Federal outlays by reason of the amendments
4 made by this section.

5 **Subtitle C—Higher Education**
6 **Reauthorization**

7 **CHAPTER 1—SHORT TITLE; REFERENCES;**
8 **GENERAL EFFECTIVE DATE**

9 **SEC. 7301. SHORT TITLE.**

10 (a) SHORT TITLE.—This subtitle may be cited as the
11 “Higher Education Amendments of 2005”.

12 **SEC. 7302. REFERENCES.**

13 Except as otherwise expressly provided, whenever in
14 this subtitle an amendment or repeal is expressed in terms
15 of an amendment to, or repeal of, a section or other provi-
16 sion, the reference shall be considered to be made to a
17 section or other provision of the Higher Education Act of
18 1965 (20 U.S.C. 1001 et seq.).

19 **SEC. 7303. GENERAL EFFECTIVE DATE.**

20 Except as otherwise provided in this subtitle or the
21 amendments made by this subtitle, the amendments made
22 by this subtitle shall take effect on July 1, 2006.

1 **CHAPTER 2—GENERAL PROVISIONS**

2 **SEC. 7311. ADDITIONAL DEFINITIONS.**

3 (a) **AMENDMENT.**—Section 103 (20 U.S.C. 1003) is
4 amended—

5 (1) by redesignating paragraphs (1) through
6 (16) as paragraphs (2) through (17), respectively;
7 and

8 (2) by inserting before paragraph (2) (as redес-
9 ignated by paragraph (1)) the following:

10 “(1) **AUTHORIZING COMMITTEES.**—The term
11 ‘authorizing committees’ means the Committee on
12 Health, Education, Labor, and Pensions of the Sen-
13 ate and the Committee on Education and the Work-
14 force of the House of Representatives.”.

15 (b) **CONFORMING AMENDMENTS.**—The Act (20
16 U.S.C. 1001 et seq.) is amended—

17 (1) in section 131(a)(3)(B) (20 U.S.C.
18 1015(a)(3)(B)), by striking “Committee on Labor
19 and Human Resources of the Senate and the Com-
20 mittee on Education and the Workforce of the
21 House of Representatives” and inserting “author-
22 izing committees”;

23 (2) in section 141(d)(4)(B) (20 U.S.C.
24 1018(d)(4)(B)), by striking “Committee on Edu-
25 cation and the Workforce of the House of Rep-

1 representatives and the Committee on Labor and
2 Human Resources of the Senate” and inserting “au-
3 thorizing committees”;

4 (3) in section 207(c)(1) (20 U.S.C. 1027(c)(1)),
5 by striking “Committee on Labor and Human Re-
6 sources of the Senate and the Committee on Edu-
7 cation and the Workforce of the House of Rep-
8 resentatives” and inserting “authorizing commit-
9 tees”;

10 (4) in section 401(f)(3) (20 U.S.C.
11 1070a(f)(3)), by striking “to the Committee on Ap-
12 propriations” and all that follows through “House of
13 Representatives” and inserting “to the Committee
14 on Appropriations of the Senate, the Committee on
15 Appropriations of the House of Representatives, and
16 the authorizing committees”;

17 (5) in section 428 (20 U.S.C. 1078)—

18 (A) in subsection (c)(9)(K), by striking
19 “House Committee on Education and the
20 Workforce and the Senate Committee on Labor
21 and Human Resources” and inserting “author-
22 izing committees”;

23 (B) in the matter following paragraph (2)
24 of subsection (g), by striking “Committee on
25 Labor and Human Resources of the Senate and

1 the Committee on Education and the Workforce
2 of the House of Representatives” and inserting
3 “authorizing committees”; and

4 (C) in subsection (n)(4), “Committee on
5 Education and the Workforce of the House of
6 Representatives and the Committee on Labor
7 and Human Resources of the Senate” and in-
8 serting “authorizing committees”;

9 (6) in section 428A (20 U.S.C. 1078–1)—

10 (A) in the matter preceding subparagraph
11 (A) of subsection (a)(4), by striking “Com-
12 mittee on Labor and Human Resources of the
13 Senate and the Committee on Education and
14 the Workforce of the House of Representatives”
15 and inserting “authorizing committees”; and

16 (B) in subsection (c)—

17 (i) in the matter preceding subpara-
18 graph (A) of paragraph (2), by striking
19 “Chairperson” and all that follows through
20 “House of Representatives” and inserting
21 “Chairpersons and Ranking Members of
22 the authorizing committees”;

23 (ii) in paragraph (3), by striking
24 “Chairperson” and all that follows through
25 “House of Representatives” and inserting

1 “Chairpersons and Ranking Members of
2 the authorizing committees”; and

3 (iii) in paragraph (5), by striking
4 “Chairperson” and all that follows through
5 “House of Representatives” and inserting
6 “Chairpersons and Ranking Members of
7 the authorizing committees”;

8 (7) in section 432 (20 U.S.C. 1082)—

9 (A) in subsection (f)(1)(C), by striking
10 “the Committee on Education and the Work-
11 force of the House of Representatives or the
12 Committee on Labor and Human Resources of
13 the Senate” and inserting “either of the author-
14 izing committees”; and

15 (B) in the matter following subparagraph
16 (D) of subsection (n)(3), by striking “Com-
17 mittee on Education and the Workforce of the
18 House of Representatives and the Committee
19 on Labor and Human Resources of the Senate”
20 and inserting “authorizing committees”;

21 (8) in section 437(c)(1) (20 U.S.C. 1087(c)(1)),
22 by striking “Committee on Education and the Work-
23 force of the House of Representatives and the Com-
24 mittee on Labor and Human Resources of the Sen-
25 ate” and inserting “authorizing committees”;

1 (9) in section 439 (20 U.S.C. 1087-2)—

2 (A) in subsection (d)(1)(E)(iii), by striking
3 “advise the Chairman” and all that follows
4 through “House of Representatives” and insert-
5 ing “advise the Chairpersons and Ranking
6 Members of the authorizing committees”;

7 (B) in subsection (r)—

8 (i) in paragraph (3), by striking “in-
9 form the Chairman” and all that follows
10 through “House of Representatives,” and
11 inserting “inform the Chairpersons and
12 Ranking Members of the authorizing com-
13 mittees”;

14 (ii) in paragraph (5)(B), by striking
15 “plan, to the Chairman” and all that fol-
16 lows through “Education and Labor” and
17 inserting “plan, to the Chairpersons and
18 Ranking Members of the authorizing com-
19 mittees”;

20 (iii) in paragraph (6)(B)—

21 (I) by striking “plan, to the
22 Chairman” and all that follows
23 through “House of Representatives”
24 and inserting “plan, to the Chair-

1 persons and Ranking Members of the
2 authorizing committees”; and

3 (II) by striking “Chairmen and
4 ranking minority members of such
5 Committees” and inserting “Chair-
6 persons and Ranking Members of the
7 authorizing committees”;

8 (iv) in paragraph (8)(C), by striking
9 “implemented to the Chairman” and all
10 that follows through “House of Represent-
11 atives, and” and inserting “implemented to
12 the Chairpersons and Ranking Members of
13 the authorizing committees, and to”; and

14 (v) in the matter preceding subpara-
15 graph (A) of paragraph (10), by striking
16 “days to the Chairman” and all that fol-
17 lows through “Education and Labor” and
18 inserting “days to the Chairpersons and
19 Ranking Members of the authorizing com-
20 mittees”; and

21 (C) in subsection (s)(2)—

22 (i) in the matter preceding clause (i)
23 of subparagraph (A), by striking “Treas-
24 ury and to the Chairman” and all that fol-
25 lows through “House of Representatives”

1 and inserting “Treasury and to the Chair-
2 persons and Ranking Members of the au-
3 thorizing committees”; and

4 (ii) in subparagraph (B), by striking
5 “Treasury and to the Chairman” and all
6 that follows through “House of Represent-
7 atives” and inserting “Treasury and to the
8 Chairpersons and Ranking Members of the
9 authorizing committees”;

10 (10) in section 455(b)(8)(B) (20 U.S.C.
11 1087e(b)(8)(B)), by striking “Committee on Labor
12 and Human Resources of the Senate and the Com-
13 mittee on Education and the Workforce of the
14 House of Representatives” and inserting “author-
15 izing committees”;

16 (11) in section 482(d) (20 U.S.C. 1089(d)), by
17 striking “Committee on Labor and Human Re-
18 sources of the Senate and the Committee on Edu-
19 cation and Labor of the House of Representatives”
20 and inserting “authorizing committees”;

21 (12) in section 483(e) (20 U.S.C. 1090(e)), by
22 striking “Committee on Labor and Human Re-
23 sources of the Senate and the Committee on Edu-
24 cation and the Workforce of the House of Rep-

1 representatives” and inserting “authorizing commit-
2 tees”;

3 (13) in section 485 (20 U.S.C. 1092)—

4 (A) in subsection (f)(5)(A), by striking
5 “Committee on Education and the Workforce of
6 the House of Representatives and the Com-
7 mittee on Labor and Human Resources of the
8 Senate” and inserting “authorizing commit-
9 tees”; and

10 (B) in subsection (g)(4)(B), by striking
11 “Committee on Education and the Workforce of
12 the House of Representatives and the Com-
13 mittee on Labor and Human Resources of the
14 Senate” and inserting “authorizing commit-
15 tees”;

16 (14) in section 486 (20 U.S.C. 1093)—

17 (A) in subsection (e), by striking “Com-
18 mittee on Labor and Human Resources of the
19 Senate and the Committee on Education and
20 the Workforce of the House of Representatives”
21 and inserting “authorizing committees”; and

22 (B) in subsection (f)(3)—

23 (i) in the matter preceding clause (i)
24 of subparagraph (A), by striking “Com-
25 mittee on Labor and Human Resources of

1 the Senate and the Committee on Edu-
2 cation and the Workforce of the House of
3 Representatives” and inserting “author-
4 izing committees”; and

5 (ii) in the matter preceding clause (i)
6 of subparagraph (B), by striking “Com-
7 mittee on Labor and Human Resources of
8 the Senate and the Committee on Edu-
9 cation and the Workforce of the House of
10 Representatives” and inserting “author-
11 izing committees”;

12 (15) in section 487A(a)(5) (20 U.S.C.
13 1094a(a)(5)), by striking “Committee on Labor and
14 Human Resources of the Senate and the Committee
15 on Education and the Workforce of the House of
16 Representatives” and inserting “authorizing commit-
17 tees”; and

18 (16) in section 498B(d) (20 U.S.C. 1099c-
19 2(d))—

20 (A) in paragraph (1), by striking “Com-
21 mittee on Labor and Human Resources of the
22 Senate and the Committee on Education and
23 the Workforce of the House of Representatives”
24 and inserting “authorizing committees”; and

1 (B) in paragraph (2), by striking “Com-
2 mittee on Labor and Human Resources of the
3 Senate and the Committee on Education and
4 the Workforce of the House of Representatives”
5 and inserting “authorizing committees”.

6 **SEC. 7312. GENERAL DEFINITION OF INSTITUTION OF**
7 **HIGHER EDUCATION.**

8 Section 101 (20 U.S.C. 1001) is amended—

9 (1) in subsection (a)(3), by inserting “, or
10 awards a degree that is acceptable for admission to
11 a graduate or professional degree program, subject
12 to the review and approval by the Secretary” after
13 “such a degree”; and

14 (2) by striking subsection (b)(2) and inserting
15 the following:

16 “(2) a public or nonprofit private educational
17 institution in any State that, in lieu of the require-
18 ment in subsection (a)(1), admits as regular stu-
19 dents persons—

20 “(A) who meet the requirements of section
21 484(d)(3);

22 “(B) who are beyond the age of compul-
23 sory school attendance in the State in which the
24 institution is located; or

1 “(C) who are dually or concurrently en-
2 rolled in such institution and a secondary
3 school.”.

4 **SEC. 7313. DEFINITION OF INSTITUTION OF HIGHER EDU-**
5 **CATION FOR PURPOSES OF TITLE IV PRO-**
6 **GRAMS.**

7 Section 102 (20 U.S.C. 1002) is amended—

8 (1) in subsection (a)—

9 (A) by striking paragraph (2)(A)(i) and in-
10 serting the following:

11 “(i) in the case of a graduate medical
12 school located outside the United States—

13 “(I) at least 60 percent of those
14 enrolled in, and at least 60 percent of
15 the graduates of, the graduate med-
16 ical school outside the United States
17 were not persons described in section
18 484(a)(5) in the year preceding the
19 year for which a student is seeking a
20 loan under part B of title IV; and

21 “(II) at least 60 percent of the
22 individuals who were students or
23 graduates of the graduate medical
24 school outside the United States or
25 Canada (both nationals of the United

1 States and others) taking the exami-
2 nations administered by the Edu-
3 cational Commission for Foreign Med-
4 ical Graduates received a passing
5 score in the year preceding the year
6 for which a student is seeking a loan
7 under part B of title IV; or”;

8 (B) by striking paragraph (3) and insert-
9 ing the following:

10 “(3) LIMITATIONS BASED ON ENROLLMENT.—

11 An institution shall not be considered to meet the
12 definition of an institution of higher education in
13 paragraph (1) if such institution—

14 “(A) has a student enrollment in which
15 more than 25 percent of the students are incar-
16 cerated, except that the Secretary may waive
17 the limitation contained in this subparagraph
18 for a nonprofit institution that provides a 2- or
19 4-year program of instruction (or both) for
20 which the institution awards a bachelor’s de-
21 gree, or an associate’s degree or a postsec-
22 ondary diploma, respectively; or

23 “(B) has a student enrollment in which
24 more than 50 percent of the students do not
25 have a secondary school diploma or its recog-

1 nized equivalent, and does not provide a 2- or
2 4-year program of instruction (or both) for
3 which the institution awards a bachelor's degree
4 or an associate's degree, respectively, except
5 that the Secretary may waive the limitation
6 contained in this subparagraph if a nonprofit
7 institution demonstrates to the satisfaction of
8 the Secretary that the institution exceeds such
9 limitation because the institution serves,
10 through contracts with Federal, State, or local
11 government agencies, significant numbers of
12 students who do not have a secondary school di-
13 ploma or its recognized equivalent.”;

14 (C) by redesignating paragraphs (4), (5),
15 and (6), as paragraphs (5), (6), and (7), re-
16 spectively; and

17 (D) by inserting after paragraph (3) the
18 following:

19 “(4) LIMITATIONS BASED ON MODE OF DELIV-
20 ERY.—

21 “(A) IN GENERAL.—An institution shall
22 not be considered to meet the definition of an
23 institution of higher education in paragraph (1)
24 if such institution—

1 “(i) offers more than 50 percent of
2 such institution’s courses by correspond-
3 ence, unless the institution is an institution
4 that meets the definition in section 3(3)(C)
5 of the Carl D. Perkins Vocational and
6 Technical Education Act of 1998; or

7 “(ii) enrolls 50 percent or more of the
8 institution’s students in correspondence
9 courses, unless the institution is an institu-
10 tion that meets the definition in such sec-
11 tion 3(3)(C), except that the Secretary, at
12 the request of such institution, may waive
13 the applicability of this subparagraph to
14 such institution for good cause, as deter-
15 mined by the Secretary in the case of an
16 institution of higher education that pro-
17 vides a 2- or 4-year program of instruction
18 (or both) for which the institution awards
19 an associate or baccalaureate degree, re-
20 spectively.

21 “(B) DISTANCE EDUCATION PROGRAM ELI-
22 GIBILITY.—Notwithstanding subparagraph (A),
23 an institution of higher education, other than a
24 foreign institution, that offers education or
25 training programs principally through distance

1 education shall be considered to meet the defini-
2 tion of an institution of higher education in
3 paragraph (1) if such institution—

4 “(i) has been evaluated and deter-
5 mined (before or after the date of enact-
6 ment of the Higher Education Amend-
7 ments of 2005) to have the capability to
8 effectively deliver distance education pro-
9 grams by an accrediting agency or associa-
10 tion that—

11 “(I) is recognized by the Sec-
12 retary under title IV; and

13 “(II) has evaluation of distance
14 education programs within the scope
15 of its recognition, as described in sec-
16 tion 496(n)(3);

17 “(ii) is otherwise eligible to participate
18 in programs authorized under title IV;

19 “(iii) has not had its participation in
20 programs under title IV suspended or ter-
21 minated within the previous 5 years;

22 “(iv) has not had, or failed to resolve,
23 an audit finding or program review finding
24 under this Act during the 2 years pre-
25 ceding the year for which the determina-

1 tion is made that, following any appeal to
2 the Secretary, resulted in the institution
3 being required to repay an amount that is
4 equal to or greater than 25 percent of the
5 total funds the institution received under
6 the programs authorized under title IV for
7 the most recent award year; and

8 “(v) has met the requirements of sec-
9 tion 487(d), if applicable.

10 “(C) DEFINITION.—

11 “(i) IN GENERAL.—In this Act, except
12 as otherwise provided, the term ‘distance
13 education’ means a course or program that
14 uses 1 or more of the technologies de-
15 scribed in clause (ii) to—

16 “(I) deliver instruction to stu-
17 dents who are separated from the in-
18 structor; and

19 “(II) support regular and sub-
20 stantive interaction between the stu-
21 dents and the instructor, either syn-
22 chronously or asynchronously.

23 “(ii) INCLUSIONS.—For the purposes
24 of clause (i), the technologies used may in-
25 clude—

1 “(I) the Internet;

2 “(II) one-way and two-way trans-
3 missions through open broadcast,
4 closed circuit, cable, microwave,
5 broadband lines, fiber optics, satellite,
6 or wireless communications devices;

7 “(III) audio conferencing; or

8 “(IV) video cassette, DVDs, and
9 CD-ROMs, provided that they are
10 used in a course in conjunction with
11 the technologies listed in subclauses
12 (I) through (III).”; and

13 (2) in subsection (b)(1)—

14 (A) in subparagraph (D), by inserting
15 “and” after the semicolon;

16 (B) in subparagraph (E), by striking “;
17 and” and inserting a period; and

18 (C) by striking subparagraph (F).

19 **SEC. 7314. PROTECTION OF STUDENT SPEECH AND ASSO-**
20 **CIATION RIGHTS.**

21 Section 112 (20 U.S.C. 1011a) is amended—

22 (1) in subsection (a)—

23 (A) by inserting “(1)” before “It is the
24 sense”; and

25 (B) by adding at the end the following:

1 “(2) It is the sense of Congress that—

2 “(A) the diversity of institutions and edu-
3 cational missions is one of the key strengths of
4 American higher education;

5 “(B) individual colleges and universities have
6 different missions and each institution should design
7 its academic program in accordance with its edu-
8 cational goals;

9 “(C) within the context of institutional mission,
10 a college should facilitate the free and open ex-
11 change of ideas;

12 “(D) students should not be intimidated, har-
13 assed, discouraged from speaking out, or discrimi-
14 nated against;

15 “(E) students should be treated equally and
16 fairly; and

17 “(F) nothing in this paragraph shall be con-
18 strued to modify, change, or infringe upon any con-
19 stitutionally protected religious liberty, freedom, ex-
20 pression, or association.”; and

21 (2) in subsection (b)(1), by inserting “, pro-
22 vided that the imposition of such sanction is done
23 objectively and fairly” after “higher education”.

1 **SEC. 7315. NATIONAL ADVISORY COMMITTEE ON INSTITU-**
2 **TIONAL QUALITY AND INTEGRITY.**

3 Section 114(g) (20 U.S.C. 1011e(g)) is amended by
4 striking “September 30, 2004” and inserting “September
5 30, 2011”.

6 **SEC. 7316. DRUG AND ALCOHOL ABUSE PREVENTION.**

7 Section 120 (20 U.S.C. 1011i) is amended by striking
8 subsections (e) and (f) and inserting the following:

9 “(e) GRANTS DIRECTED AT REDUCING HIGHER
10 EDUCATION DRUG AND ALCOHOL ABUSE.—

11 “(1) AUTHORIZATION OF PROGRAM.—The Sec-
12 retary may award grants to eligible entities to enable
13 the entities to reduce the rate of drug use, underage
14 alcohol use, and binge drinking among students at
15 institutions of higher education.

16 “(2) APPLICATIONS.—An eligible entity that de-
17 sires to receive a grant under this subsection shall
18 submit an application to the Secretary at such time,
19 in such manner, and accompanied by such informa-
20 tion as the Secretary may require. Each application
21 shall include—

22 “(A) a description of how the eligible enti-
23 ty will work to enhance an existing, or where
24 none exists to build a, statewide coalition;

25 “(B) a description of how the eligible enti-
26 ty will target underage students in the State;

1 “(C) a description of how the eligible enti-
2 ty intends to ensure that the statewide coalition
3 is actually implementing the purpose described
4 in paragraph (1) and moving toward the
5 achievement indicators described in paragraph
6 (4);

7 “(D) a list of the members of the statewide
8 coalition or interested parties involved in the
9 work of the eligible entity;

10 “(E) a description of how the eligible enti-
11 ty intends to work with State agencies on sub-
12 stance abuse prevention and education;

13 “(F) the anticipated impact of funds pro-
14 vided under this subsection in reducing the
15 rates of drug abuse and underage alcohol use;

16 “(G) outreach strategies, including ways in
17 which the eligible entity proposes to—

18 “(i) reach out to students;

19 “(ii) promote the purpose described in
20 paragraph (1);

21 “(iii) address the range of needs of
22 the students and the surrounding commu-
23 nities; and

1 “(iv) address community norms for
2 underage students regarding drug and al-
3 cohol use; and

4 “(H) such additional information as re-
5 quired by the Secretary.

6 “(3) USES OF FUNDS.—Each eligible entity
7 that receives a grant under this subsection shall use
8 the grant funds to carry out the activities described
9 in such entity’s application submitted pursuant to
10 paragraph (2).

11 “(4) ACCOUNTABILITY.—On the date on which
12 the Secretary first publishes a notice in the Federal
13 Register soliciting applications for grants under this
14 subsection, the Secretary shall include in the notice
15 achievement indicators for the program authorized
16 under this subsection. The achievement indicators
17 shall be designed—

18 “(A) to measure the impact that the state-
19 wide coalitions assisted under this subsection
20 are having on the institutions of higher edu-
21 cation and the surrounding communities, in-
22 cluding changes in the number of alcohol and
23 drug-related abuse incidents of any kind (in-
24 cluding violations, physical assaults, sexual as-
25 saults, reports of intimidation, disruptions of

1 school functions, disruptions of student studies,
2 mental health referrals, illnesses, or deaths);

3 “(B) to measure the quality and accessi-
4 bility of the programs or information offered by
5 the statewide coalitions; and

6 “(C) to provide such other measures of
7 program impact as the Secretary determines
8 appropriate.

9 “(5) SUPPLEMENT NOT SUPPLANT.—Grant
10 funds provided under this subsection shall be used to
11 supplement, and not supplant, Federal and non-Fed-
12 eral funds available for carrying out the activities
13 described in this subsection.

14 “(6) DEFINITIONS.—In this subsection:

15 “(A) ELIGIBLE ENTITY.—The term ‘eligi-
16 ble entity’ means a State, an institution of
17 higher education as defined in section 102, or
18 a nonprofit entity.

19 “(B) INSTITUTION OF HIGHER EDU-
20 CATION.—The term ‘institution of higher edu-
21 cation’ has the meaning given the term in sec-
22 tion 101(a).

23 “(C) STATE.—The term ‘State’ means
24 each of the 50 States, the District of Columbia,
25 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

1 “(iii) where students from the institu-
2 tion of higher education live in off-campus
3 housing.

4 “(7) ADMINISTRATIVE EXPENSES.—Not more
5 than 5 percent of a grant awarded under this sub-
6 section may be expended for administrative ex-
7 penses.

8 “(8) AUTHORIZATION OF APPROPRIATIONS.—
9 There are authorized to be appropriated to carry out
10 this subsection such sums as may be necessary for
11 fiscal year 2006 and each of the 5 succeeding fiscal
12 years.”.

13 **SEC. 7317. PRIOR RIGHTS AND OBLIGATIONS.**

14 Section 121(a) (20 U.S.C. 1011j(a)) is amended—

15 (1) in paragraph (1), by striking “1999” and
16 inserting “2006”; and

17 (2) in paragraph (2), by striking “1999” and
18 inserting “2006”.

19 **SEC. 7318. COST OF HIGHER EDUCATION.**

20 Section 131 (20 U.S.C. 1015) is amended—

21 (1) by striking subsection (b) and inserting the
22 following:

23 “(b) COLLEGE CONSUMER INFORMATION.—

24 “(1) IN GENERAL.—The Secretary shall make
25 available to the public the information described in

1 paragraph (2), in a form that enables the public to
2 compare the information among institutions of high-
3 er education. Such information shall be made avail-
4 able for each of the categories described in para-
5 graph (3) and updated annually.

6 “(2) INFORMATION.—The information de-
7 scribed in this paragraph is the following:

8 “(A) Tuition and fees for a first-time, full-
9 time undergraduate student.

10 “(B) Cost of attendance for a first-time,
11 full-time undergraduate student.

12 “(C) The average annual cost of attend-
13 ance for a first-time, full-time undergraduate
14 student for the preceding periods of 5 and 10
15 academic years preceding the year for which the
16 information is made available under this sub-
17 section, or if data are not available for such
18 academic years, data for as many of such aca-
19 demic years as are available.

20 “(D) The percentage of full-time under-
21 graduate students receiving financial assistance,
22 including—

23 “(i) Federal grants;

24 “(ii) State and local grants;

25 “(iii) institutional grants; and

1 “(iv) loans to students.

2 “(E) The average amount of financial aid
3 received by students from sources described in
4 clauses (i) through (iv) of subparagraph (D).

5 “(F) Graduation rates, as described in sec-
6 tion 485(a)(1)(L).

7 “(G) A ranking of the dollar and percent-
8 age increases in tuition and fees for all institu-
9 tions of higher education for which data are
10 available in each of the categories described in
11 paragraph (3).

12 “(3) CATEGORIES.—The categories described in
13 this paragraph are as follows:

14 “(A) All institutions of higher education.

15 “(B) 4-year public, degree-granting, insti-
16 tutions of higher education.

17 “(C) 2-year public, degree-granting, insti-
18 tutions of higher education.

19 “(D) 4-year, nonprofit, private, degree-
20 granting institutions of higher education.

21 “(E) 2-year, nonprofit, private, degree-
22 granting institutions of higher education.

23 “(F) 4-year, for-profit, private, degree-
24 granting institutions of higher education.

1 “(G) 2-year, for-profit, private, degree-
2 granting institutions of higher education.

3 “(H) Less than 2-year, for-profit, private
4 institutions of higher education.

5 “(4) STANDARD DEFINITIONS.—In carrying out
6 this section, the Secretary shall use the standard
7 definitions developed under subsection (a)(3).”; and
8 (2) in subsection (c)—

9 (A) in paragraph (1), by inserting “be con-
10 ducted on an annual basis and” after “Such
11 study shall”;

12 (B) in paragraph (2)—

13 (i) in subparagraph (B), by striking
14 “and” after the semicolon;

15 (ii) in subparagraph (C), by striking
16 the period and inserting a semicolon; and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(D) the average cost of attending an in-
20 stitution of higher education, disaggregated by
21 category, as described in subsection (b)(3);

22 “(E) the average annual cost of attending
23 an institution of higher education for the peri-
24 ods of 5 and 10 academic years preceding the
25 year for which the study is conducted (or if

1 data are not available for such academic years,
2 data for as many of such academic years as are
3 available), disaggregated by category, as de-
4 scribed in subsection (b)(3); and

5 “(F) the assistance provided to institutions
6 of higher education by each State.”;

7 (C) in paragraph (3)—

8 (i) in the paragraph heading, by strik-
9 ing “FINAL” and inserting “ANNUAL”;

10 (ii) by striking “a report” and insert-
11 ing “an annual report”; and

12 (iii) by striking “not later than Sep-
13 tember 30, 2002” and inserting “and the
14 public”; and

15 (D) by striking paragraph (4) and insert-
16 ing the following:

17 “(4) HIGHER EDUCATION COST INDEX.—The
18 Bureau of Labor Statistics, in consultation with the
19 Commissioner of Education Statistics, shall develop
20 a higher education cost index that tracks inflation
21 changes in the relevant costs associated with higher
22 education.”.

1 **SEC. 7319. PERFORMANCE-BASED ORGANIZATION FOR THE**
2 **DELIVERY OF FEDERAL STUDENT FINANCIAL**
3 **ASSISTANCE.**

4 Section 141 (20 U.S.C. 1018) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by striking “oper-
7 ational” and inserting “administrative and
8 oversight”; and

9 (B) in paragraph (2)(D), by striking “of
10 the operational functions” and inserting “and
11 administration”;

12 (2) in subsection (b)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (A), by striking
15 “the information systems administered by
16 the PBO, and other functions performed
17 by the PBO” and inserting “the Federal
18 student financial assistance programs au-
19 thorized under title IV”; and

20 (ii) by striking subparagraph (C) and
21 inserting the following:

22 “(C) assist the Chief Operating Officer in
23 identifying goals for—

24 “(i) the administration of the systems
25 used to administer the Federal student fi-

1 nancial assistance programs authorized
2 under title IV; and

3 “(ii) the updating of such systems to
4 current technology.”; and

5 (B) in paragraph (2)—

6 (i) in the matter preceding subpara-
7 graph (A), by striking “administration of
8 the information and financial systems that
9 support” and inserting “the administration
10 of Federal”;

11 (ii) in subparagraph (A)—

12 (I) in the matter preceding clause
13 (i), by striking “of the delivery system
14 for Federal student assistance” and
15 inserting “for the Federal student as-
16 sistance programs authorized under
17 title IV”;

18 (II) by striking clauses (i) and
19 (ii) and inserting the following:

20 “(i) the collection, processing, and
21 transmission of data to students, institu-
22 tions, lenders, State agencies, and other
23 authorized parties;

24 “(ii) the design and technical speci-
25 fications for software development and pro-

1 curement for systems supporting the stu-
2 dent financial assistance programs author-
3 ized under title IV;”;

4 (III) in clause (iii), by striking
5 “delivery” and inserting “administra-
6 tion”;

7 (IV) in clause (iv)—

8 (aa) by inserting “the” after
9 “supporting”; and

10 (bb) by striking “and” after
11 the semicolon;

12 (V) in clause (v), by striking
13 “systems that support those pro-
14 grams.” and inserting “the adminis-
15 tration of the Federal student assist-
16 ance programs authorized under title
17 IV; and”; and

18 (VI) by adding at the end the fol-
19 lowing:

20 “(vi) ensuring the integrity of the stu-
21 dent assistance programs authorized under
22 title IV.”; and

23 (iii) in subparagraph (B), by striking
24 “operations and services” and inserting
25 “activities and functions”; and

1 (3) in subsection (c)—

2 (A) in paragraph (1)(C)—

3 (i) in clause (iii), by striking “infor-
4 mation and delivery”; and

5 (ii) in clause (iv)—

6 (I) by striking “Developing an”
7 and inserting “Developing”; and

8 (II) by striking “delivery and in-
9 formation system” and inserting “sys-
10 tems”;

11 (B) in paragraph (2)—

12 (i) in subparagraph (A), by inserting
13 “the” after “PBO and”; and

14 (ii) in subparagraph (B), by striking
15 “Officer” and inserting “Officers”; and

16 (C) in paragraph (3), by inserting “stu-
17 dents,” after “consult with”;

18 (4) in subsection (d)—

19 (A) in paragraph (1), by striking the sec-
20 ond sentence; and

21 (B) in paragraph (5)—

22 (i) in subparagraph (B), by striking
23 “paragraph (2)” and inserting “paragraph
24 (4)”; and

1 (ii) in subparagraph (C), by striking
2 “this”;

3 (5) in subsection (f)—

4 (A) in paragraph (2), by striking “to bor-
5 rowers” and inserting “to students, bor-
6 rowers,”; and

7 (B) in paragraph (3)(A), by striking
8 “(1)(A)” and inserting “(1)”;

9 (6) in subsection (g)(3), by striking “not more
10 than 25”;

11 (7) in subsection (h), by striking “organiza-
12 tional effectiveness” and inserting “effectiveness”;

13 (8) by striking subsection (i);

14 (9) by redesignating subsection (j) as sub-
15 section (i); and

16 (10) in subsection (i) (as redesignated by para-
17 graph (9)), by striking “, including transition costs”.

18 **SEC. 7320. PROCUREMENT FLEXIBILITY.**

19 Section 142 (20 U.S.C. 1018a) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by striking “for information sys-
23 tems supporting the programs authorized
24 under title IV”; and

1 (ii) by striking “and” after the semi-
2 colon;

3 (B) in paragraph (2), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(3) through the Chief Operating Officer—

7 “(A) to the maximum extent practicable,
8 utilize procurement systems that streamline op-
9 erations, improve internal controls, and enhance
10 management; and

11 “(B) assess the efficiency of such systems
12 and assess such systems’ ability to meet PBO
13 requirements.”;

14 (2) by striking subsection (c)(2) and inserting
15 the following:

16 “(2) FEE FOR SERVICE ARRANGEMENTS.—The
17 Chief Operating Officer shall, when appropriate and
18 consistent with the purposes of the PBO, acquire
19 services related to the functions set forth in section
20 141(b)(2) from any entity that has the capability
21 and capacity to meet the requirements set by the
22 PBO. The Chief Operating Officer is authorized to
23 pay fees that are equivalent to those paid by other
24 entities to an organization that provides services

1 that meet the requirements of the PBO, as deter-
2 mined by the Chief Operating Officer.”;

3 (3) in subsection (d)(2)(B), by striking “on
4 Federal Government contracts”;

5 (4) in subsection (g)—

6 (A) in paragraph (4)(A)—

7 (i) in the subparagraph heading, by
8 striking “SOLE SOURCE.—” and inserting
9 “SINGLE-SOURCE BASIS.—”; and

10 (ii) by striking “sole-source” and in-
11 sserting “single-source”; and

12 (B) in paragraph (7), by striking “sole-
13 source” and inserting “single-source”;

14 (5) in subsection (h)(2)(A), by striking “sole-
15 source” and inserting “single-source”; and

16 (6) in subsection (l), by striking paragraph (3)
17 and inserting the following:

18 “(3) SINGLE-SOURCE BASIS.—The term ‘single-
19 source basis’, with respect to an award of a contract,
20 means that the contract is awarded to a source after
21 soliciting an offer or offers from, and negotiating
22 with, only such source (although such source is not
23 the only source in the marketplace capable of meet-
24 ing the need) because such source is the most advan-
25 tageous source for purposes of the award.”.

1 **CHAPTER 3—TEACHER QUALITY**
2 **ENHANCEMENT**

3 **SEC. 7331. TEACHER QUALITY ENHANCEMENT GRANTS FOR**
4 **STATES AND PARTNERSHIPS.**

5 Part A of title II (20 U.S.C. 1021 et seq.) is amended
6 to read as follows:

7 **“PART A—TEACHER QUALITY ENHANCEMENT**
8 **GRANTS FOR STATES AND PARTNERSHIPS**

9 **“SEC. 201. PURPOSES; DEFINITIONS.**

10 “(a) PURPOSES.—The purposes of this part are to—

11 “(1) improve student achievement;

12 “(2) improve the quality of the current and fu-
13 ture teaching force by improving the preparation of
14 prospective teachers and enhancing professional de-
15 velopment activities;

16 “(3) hold institutions of higher education ac-
17 countable for preparing highly qualified teachers;
18 and

19 “(4) recruit qualified individuals, including mi-
20 norities and individuals from other occupations, into
21 the teaching force.

22 “(b) DEFINITIONS.—In this part:

23 “(1) ARTS AND SCIENCES.—The term ‘arts and
24 sciences’ means—

1 “(A) when referring to an organizational
2 unit of an institution of higher education, any
3 academic unit that offers 1 or more academic
4 majors in disciplines or content areas cor-
5 responding to the academic subject areas in
6 which teachers provide instruction; and

7 “(B) when referring to a specific academic
8 subject area, the disciplines or content areas in
9 which academic majors are offered by the arts
10 and sciences organizational unit.

11 “(2) CHILDREN FROM LOW-INCOME FAMI-
12 LIES.—The term ‘children from low-income families’
13 means children as described in section 1124(c)(1)(A)
14 of the Elementary and Secondary Education Act of
15 1965.

16 “(3) EARLY CHILDHOOD EDUCATION PRO-
17 GRAM.—The term ‘early childhood education pro-
18 gram’ means a Head Start program or an Early
19 Head Start program carried out under the Head
20 Start Act (42 U.S.C. 9831 et seq.), a State licensed
21 or regulated child care program or school, or a State
22 prekindergarten program that serves children from
23 birth through kindergarten and that addresses the
24 children’s cognitive (including language, early lit-

1 eracy, and pre-numeracy), social, emotional, and
2 physical development.

3 “(4) EARLY CHILDHOOD EDUCATOR.—The
4 term ‘early childhood educator’ means an individual
5 with primary responsibility for the education of chil-
6 dren in an early childhood education program.

7 “(5) EDUCATIONAL SERVICE AGENCY.—The
8 term ‘educational service agency’ has the meaning
9 given such term in section 9101 of the Elementary
10 and Secondary Education Act of 1965.

11 “(6) EXEMPLARY TEACHER.—The term ‘exem-
12 plary teacher’ has the meaning given such term in
13 section 9101 of the Elementary and Secondary Edu-
14 cation Act of 1965.

15 “(7) HIGH-NEED LOCAL EDUCATIONAL AGEN-
16 CY.—The term ‘high-need local educational agency’
17 means a local educational agency or educational
18 service agency—

19 “(A)(i) that serves not fewer than 10,000
20 children from low-income families;

21 “(ii) for which not less than 20 percent of
22 the children served by the agency are children
23 from low-income families; or

24 “(iii) with a total of less than 600 students
25 in average daily attendance at the schools that

1 are served by the agency and all of whose
2 schools are designated with a school locale code
3 of 7 or 8, as determined by the Secretary; and

4 “(B)(i) for which there is a high percent-
5 age of teachers not teaching in the academic
6 subject areas or grade levels in which the teach-
7 ers were trained to teach; or

8 “(ii) for which there is a high teacher
9 turnover rate or a high percentage of teachers
10 with emergency, provisional, or temporary cer-
11 tification or licensure.

12 “(8) HIGHLY QUALIFIED.—The term ‘highly
13 qualified’ has the meaning given such term in sec-
14 tion 9101 of the Elementary and Secondary Edu-
15 cation Act of 1965 and, with respect to special edu-
16 cation teachers, in section 602 of the Individuals
17 with Disabilities Education Act.

18 “(9) PROFESSIONAL DEVELOPMENT.—The
19 term ‘professional development’ has the meaning
20 given such term in section 9101 of the Elementary
21 and Secondary Education Act of 1965.

22 “(10) SCIENTIFICALLY BASED READING RE-
23 SEARCH.—The term ‘scientifically based reading re-
24 search’ has the meaning given such term in section

1 1208 of the Elementary and Secondary Education
2 Act of 1965.

3 “(11) SCIENTIFICALLY BASED RESEARCH.—
4 The term ‘scientifically based research’ has the
5 meaning given such term in section 9101 of the Ele-
6 mentary and Secondary Education Act of 1965.

7 “(12) TEACHER MENTORING.—The term
8 ‘teacher mentoring’ means mentoring of teachers
9 through an established or implemented program—

10 “(A) that includes qualifications for men-
11 tors;

12 “(B) that provides training for mentors;

13 “(C) that provides regular and ongoing op-
14 portunities for mentors and mentees to observe
15 each other’s teaching methods in classroom set-
16 tings during the school day;

17 “(D) in which the mentoring is provided by
18 a colleague who teaches in the same field,
19 grade, or subject as the mentee; and

20 “(E) that includes—

21 “(i) common planning time or regu-
22 larly scheduled collaboration with teachers
23 in the teachers’ same field, grade, or sub-
24 ject 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

1 “(G) in the case of an early childhood edu-
2 cator, use age appropriate strategies and prac-
3 tices for children in early childhood education
4 programs.

5 **“SEC. 202. STATE GRANTS.**

6 “(a) IN GENERAL.—From amounts made available
7 under section 209(a)(1) for a fiscal year, the Secretary
8 is authorized to award grants under this section, on a
9 competitive basis, to eligible States to enable the eligible
10 States to carry out the activities described in subsections
11 (d) and (e).

12 “(b) ELIGIBLE STATE.—

13 “(1) DEFINITION.—In this part, the term ‘eligi-
14 ble State’ means—

15 “(A) the Governor of a State; or

16 “(B) in the case of a State for which the
17 constitution or law of such State designates an-
18 other individual, entity, or agency in the State
19 to be responsible for teacher certification or li-
20 censure and preparation activity, such indi-
21 vidual, entity, or agency.

22 “(2) CONSULTATION.—The Governor or the in-
23 dividual, entity, or agency designated under para-
24 graph (1)(B) shall consult with the Governor, State
25 board of education, State educational agency, State

1 agency for higher education, or other applicable
2 State entities (including the State agency responsible
3 for early childhood education), as appropriate, with
4 respect to the activities assisted under this section,
5 including the development of the grant application
6 and implementation of the activities.

7 “(3) CONSTRUCTION.—Nothing in this sub-
8 section shall be construed to negate or supersede the
9 legal authority under State law of any State agency,
10 State entity, or State public official over programs
11 that are under the jurisdiction of the agency, entity,
12 or official.

13 “(c) APPLICATION.—To be eligible to receive a grant
14 under this section, an eligible State shall submit an appli-
15 cation to the Secretary that—

16 “(1) meets the requirement of this section;

17 “(2) demonstrates that the eligible State is in
18 full compliance with—

19 “(A) sections 206(b) and 207; and

20 “(B) if applicable, sections 207(b) and
21 208, as such sections were in effect on the day
22 before the date of enactment of the Higher
23 Education Amendments of 2005;

1 “(3) includes a description of how the eligible
2 State intends to use funds provided under this sec-
3 tion;

4 “(4) includes measurable objectives for the use
5 of the funds provided under this section;

6 “(5) describes how funded activities will—

7 “(A) reduce shortages, if any, of—

8 “(i) highly qualified general and spe-
9 cial education teachers, including in low-in-
10 come urban and rural areas and in high-
11 need academic subject areas; and

12 “(ii) fully competent early childhood
13 educators; and

14 “(B) be consistent with State, local, and
15 other education reform activities that promote
16 effective teaching skills and student academic
17 achievement and consistent with State early
18 learning standards for early childhood education
19 programs, including how funded activities will
20 support carrying out the applicable require-
21 ments of the eligible State under sections 1111
22 and 1119 of the Elementary and Secondary
23 Education Act of 1965, and section 612(a)(14)
24 of the Individuals with Disabilities Education
25 Act;

1 “(6) contains an assurance that the eligible
2 State will carry out each of the intended uses of
3 grant funds described in paragraph (3);

4 “(7) describes the eligible State’s—

5 “(A) current capacity to measure the effec-
6 tiveness of teacher preparation programs and
7 professional development activities within the
8 State using available statewide data;

9 “(B) activities to enhance or expand the
10 integration of existing data systems to better
11 measure the effectiveness of teacher preparation
12 programs and professional development activi-
13 ties within the State; or

14 “(C) if such data systems do not exist,
15 plans for the development of an integrated
16 statewide data system to measure the effective-
17 ness of teacher preparation programs and pro-
18 fessional development activities within the State
19 using available statewide data; and

20 “(8) contains such other information and assur-
21 ances as the Secretary may require.

22 “(d) REQUIRED USES OF FUNDS.—An eligible State
23 that receives a grant under this section shall use the grant
24 funds to reform teacher preparation requirements, to co-
25 ordinate with State activities under section 2113(c) of the

1 Elementary and Secondary Education Act of 1965 and
2 subsections (a) and (b) of section 654 of the Individuals
3 with Disabilities Education Act, and to ensure that cur-
4 rent and prospective teachers are highly qualified, by car-
5 rying out each of the following activities:

6 “(1) REFORMS.—Ensuring that all teacher
7 preparation programs in the State are preparing
8 current or prospective teachers to become highly
9 qualified, to understand scientifically based research
10 and its applicability, and to use technology effec-
11 tively, including use of instructional techniques to
12 improve student academic achievement, by assisting
13 such programs—

14 “(A) in retraining faculty;

15 “(B) in designing (or redesigning) teacher
16 preparation programs so that such programs—

17 “(i) are based on rigorous academic
18 content and scientifically based research
19 (including scientifically based reading re-
20 search), and aligned with challenging State
21 academic content standards;

22 “(ii) promote effective teaching skills;

23 and

24 “(iii) promote understanding of effec-
25 tive instructional strategies for students

1 with special needs, including students with
2 disabilities, students who are limited
3 English proficient, and students who are
4 gifted and talented;

5 “(C) in ensuring collaboration with depart-
6 ments, programs, or units outside of the teach-
7 er preparation program in relevant academic
8 content areas to ensure a successful combina-
9 tion of training in both teaching and such con-
10 tent;

11 “(D) in developing high-quality, rigorous
12 clinical experiences (that include student teach-
13 ing experience) in which students participate
14 while enrolled in a teacher preparation pro-
15 gram, lasting not less than 1 term, through dis-
16 semination of best practices, technical assist-
17 ance, or other relevant activities; and

18 “(E) in collecting and using data, in col-
19 laboration with institutions of higher education,
20 schools, and local educational agencies, on
21 teacher retention rates, by school, to evaluate
22 and strengthen the effectiveness of the State’s
23 teacher support system.

1 “(2) CERTIFICATION OR LICENSURE REQUIRE-
2 MENTS.—Reforming teacher certification or licen-
3 sure requirements to ensure that—

4 “(A) teachers have the academic content
5 knowledge and teaching skills in the academic
6 subject areas that the teachers teach that are
7 necessary to help students meet challenging
8 State student academic achievement standards,
9 as required under section 1111(b)(1) of the El-
10 ementary and Secondary Education Act of
11 1965;

12 “(B) such requirements are aligned with
13 challenging State academic content standards,
14 as required under section 1111(b)(1) of the El-
15 ementary and Secondary Education Act of
16 1965;

17 “(C) teacher certification and licensure as-
18 sessments are—

19 “(i) used for purposes for which such
20 assessments are valid and reliable;

21 “(ii) consistent with relevant, profes-
22 sional, and technical standards; and

23 “(iii) aligned with the reporting re-
24 quirements of sections 205 and 206; and

1 “(D) such requirements for high-need aca-
2 ademic subject areas (such as reading, mathe-
3 matics, science, and foreign language, including
4 less commonly taught languages) and high-need
5 areas (such as special education, language in-
6 struction educational programs, and early child-
7 hood education) exist and reflect qualifications
8 to help students meet high standards, which
9 may include the development of a State test for
10 such areas.

11 “(3) EVALUATION.—

12 “(A) ANNUAL EVALUATION.—An eligible
13 State that receives a grant under this section
14 shall evaluate annually the effectiveness of
15 teacher preparation programs and professional
16 development activities within the State. To the
17 extent practicable, such evaluation shall exam-
18 ine—

19 “(i) teachers’ contributions to improv-
20 ing student academic achievement, as
21 measured by State academic assessments
22 required under section 1111(b)(3) of the
23 Elementary and Secondary Education Act
24 of 1965; and

1 “(ii) teacher mastery of the academic
2 subject matter the teachers teach.

3 “(B) PUBLIC REPORTING.—The eligible
4 State shall make the information described in
5 subparagraph (A) widely available through pub-
6 lic means, such as posting on the Internet, dis-
7 tribution to the media, and distribution through
8 public agencies, except such reporting shall not
9 be made in a case in which the reporting of the
10 data would reveal personally identifiable infor-
11 mation about a teacher or student.

12 “(C) BETTER MEASUREMENT OF EFFEC-
13 TIVENESS.—

14 “(i) IN GENERAL.—An eligible State
15 that receives a grant under this section
16 and does not have the capacity to measure
17 the effectiveness of teacher preparation
18 programs and professional development ac-
19 tivities within the State using available
20 statewide data, shall use a portion of funds
21 received under this section to enhance or
22 expand the integration of existing data sys-
23 tems, as described in subsection (e)(7)(B),
24 or develop an integrated statewide data
25 system, as described in subsection

1 (c)(7)(C), to better measure and provide
2 information that will improve the effective-
3 ness of teacher preparation programs on
4 student learning and achievement, and the
5 impact of pre-service and ongoing profes-
6 sional development on teacher placement
7 and retention.

8 “(ii) TECHNICAL QUALITY; STUDENT
9 PRIVACY; FUNDS FROM OTHER SOURCES.—
10 In carrying out clause (i), the eligible State
11 shall ensure—

12 “(I) the technical quality of the
13 data system to maximize the validity,
14 reliability, and accessibility of the
15 data;

16 “(II) that student privacy is pro-
17 tected and that individually identifi-
18 able information about students, their
19 achievements, and their families re-
20 mains confidential, in accordance with
21 the Family Educational Rights and
22 Privacy Act of 1974; and

23 “(III) that funds provided under
24 this section are used to supplement
25 State efforts to enhance or expand the

1 integration of existing data systems or
2 to develop an integrated statewide
3 data system.

4 “(e) ALLOWABLE USES OF FUNDS.—An eligible
5 State that receives a grant under this section may use the
6 grant funds to reform teacher preparation requirements,
7 to coordinate with State activities under section 2113(c)
8 of the Elementary and Secondary Education Act of 1965
9 and subsections (a) and (b) of section 654 of the Individ-
10 uals with Disabilities Education Act, and to ensure that
11 current and future teachers are highly qualified, by car-
12 rying out any of the following activities:

13 “(1) ALTERNATIVES TO TRADITIONAL PREPA-
14 RATION FOR TEACHING AND STATE CERTIFICATION
15 OR LICENSURE.—Providing prospective teachers
16 with alternative routes to State certification or licen-
17 sure and alternative route programs to become high-
18 ly qualified teachers through—

19 “(A) innovative approaches that reduce un-
20 necessary barriers to State certification or licen-
21 sure while producing highly qualified teachers;

22 “(B) a selective means for admitting indi-
23 viduals into such programs that includes pas-
24 sage of State approved teacher examinations in
25 appropriate subject areas;

1 “(C) programs that help prospective teach-
2 ers develop effective teaching skills and strate-
3 gies through knowledge of research-based infor-
4 mation on the learning process and learning
5 practices;

6 “(D) programs that provide support to
7 teachers during the teachers’ initial years in the
8 profession; and

9 “(E) alternative routes to State certifi-
10 cation or licensure of teachers for qualified indi-
11 viduals, including mid-career professionals from
12 other occupations, paraprofessionals, former
13 military personnel, and recent college graduates
14 with records of academic distinction.

15 “(2) INNOVATIVE PROGRAMS.—Planning and
16 implementing innovative programs to enhance the
17 ability of institutions of higher education, including
18 charter colleges of education, or university and local
19 educational agency partnership schools, to prepare
20 highly qualified teachers, which programs shall—

21 “(A) permit flexibility in the manner in
22 which the institution of higher education meets
23 State requirements as long as graduates, during
24 the graduates’ initial years in the profession, in-
25 crease student academic achievement;

1 “(B) provide a description in the applica-
 2 tion of long-term data gathered from teachers’
 3 performance over multiple years in the class-
 4 room regarding the teachers’ ability to increase
 5 student academic achievement;

6 “(C) ensure high-quality preparation of
 7 teachers from underrepresented groups;

8 “(D) create performance measures that
 9 can be used to document the effectiveness of in-
 10 novative methods for preparing highly qualified
 11 teachers; and

12 “(E) develop frameworks for exemplary in-
 13 duction programs informed by research and
 14 best practices.

15 “(3) TEACHER RECRUITMENT AND RETEN-
 16 TION.—Undertaking activities that develop and im-
 17 plement effective mechanisms to ensure that local
 18 educational agencies and schools are able to recruit
 19 and retain highly qualified teachers, which may in-
 20 clude the following activities:

21 “(A) PERFORMANCE BASED COMPENSA-
 22 TION.—Assisting local educational agencies in
 23 developing—

24 “(i) performance systems that reward
 25 teachers who increase student academic

1 achievement and take on additional respon-
2 sibilities, such as teacher mentoring and
3 serving as master teachers; and

4 “(ii) strategies that provide differen-
5 tial and bonus pay in high-need local edu-
6 cational agencies to recruit and retain—

7 “(I) principals;

8 “(II) highly qualified teachers
9 who teach in high-need academic sub-
10 ject areas (such as reading, mathe-
11 matics, science, and foreign language,
12 including less commonly taught lan-
13 guages);

14 “(III) highly qualified teachers
15 who teach in schools identified for
16 school improvement under section
17 1116(b) of the Elementary and Sec-
18 ondary Education Act of 1965;

19 “(IV) highly qualified special
20 education teachers;

21 “(V) highly qualified teachers
22 specializing in teaching children who
23 are limited English proficient; and

1 “(VI) highly qualified teachers in
2 low-income urban and rural schools or
3 districts.

4 “(B) ADDITIONAL MECHANISMS.—Devel-
5 oping and implementing effective mechanisms
6 to ensure that local educational agencies and
7 schools are able to—

8 “(i) address needs identified with re-
9 spect to—

10 “(I) underrepresented groups;

11 “(II) high-need academic subject
12 areas (such as reading, mathematics,
13 science, and foreign language, includ-
14 ing less commonly taught languages);

15 “(III) high-need areas (such as
16 special education, language instruc-
17 tion educational programs for limited
18 English proficient students, and early
19 childhood education);

20 “(IV) high-need communities,
21 such as rural and urban areas; and

22 “(V) high-need schools, including
23 schools with high rates of teacher
24 turnover;

1 “(ii) offer teacher mentoring for new
2 teachers during such teachers’ initial years
3 of teaching; and

4 “(iii) provide access to ongoing profes-
5 sional development and innovative training
6 opportunities for teachers and administra-
7 tors.

8 “(C) TEACHER ADVANCEMENT.—Assisting
9 local educational agencies in developing teacher
10 advancement and retention initiatives that pro-
11 mote professional growth and emphasize mul-
12 tiple career paths (such as paths to becoming a
13 highly qualified mentor teacher or exemplary
14 teacher) and pay differentiation.

15 “(D) RECRUIT QUALIFIED PROFES-
16 SIONALS.—Developing recruitment programs or
17 assisting local educational agencies in—

18 “(i) recruiting qualified professionals
19 from other fields, including highly qualified
20 paraprofessionals (as defined in section
21 2102 of the Elementary and Secondary
22 Education Act of 1965); and

23 “(ii) providing such professionals with
24 alternative routes to teacher certification
25 or licensure.

1 “(E) UNDERREPRESENTED POPU-
2 LATIONS.—Providing increased opportunities
3 for minorities, individuals with disabilities, and
4 other individuals underrepresented in the teach-
5 ing profession to become highly qualified teach-
6 ers.

7 “(F) RURAL EDUCATION RECRUITMENT
8 AND RETENTION PROGRAMS.—Making grants to
9 rural school districts, or a consortia of rural
10 school districts, to implement—

11 “(i) teacher recruitment strategies,
12 which may include tuition assistance, stu-
13 dent loan forgiveness, housing assistance,
14 bonus pay, and other effective approaches;

15 “(ii) teacher retention strategies, such
16 as mentoring programs and ongoing oppor-
17 tunities for professional growth and ad-
18 vancement; and

19 “(iii) partnerships with institutions of
20 higher education designed to—

21 “(I) prepare beginning teachers
22 to teach; and

23 “(II) assist teachers (including
24 teachers who teach multiple subjects)
25 to become highly qualified.

1 “(4) TEACHER SCHOLARSHIPS AND SUPPORT.—

2 Providing—

3 “(A) scholarships to help students, such as
4 individuals who have been accepted by, or who
5 are enrolled in, a program of undergraduate
6 education or initial teacher preparation at an
7 institution of higher education, pay the costs of
8 tuition, room, board, and other expenses of
9 completing a teacher preparation program, if—

10 “(i) the Secretary establishes such re-
11 quirements as the Secretary determines
12 necessary to ensure that recipients of
13 scholarships under this section who com-
14 plete teacher preparation programs—

15 “(I) subsequently teach in an
16 early childhood education program or
17 a high-need local educational agency
18 for a period of time equivalent to the
19 period of time for which the recipient
20 received scholarship assistance, plus
21 an additional 1 year; or

22 “(II) repay the amount of the
23 scholarship if the recipient does not
24 teach as described in subclause (I);
25 and

1 “(ii) the eligible State provides an as-
2 surance that the eligible State will recruit
3 minority students to become highly quali-
4 fied teachers;

5 “(B) support services, if needed, to enable
6 scholarship recipients to complete postsecondary
7 education programs, or to move from a career
8 outside of the field of education into a teaching
9 career; and

10 “(C) follow-up services to former scholar-
11 ship recipients during the recipients’ initial
12 years of teaching.

13 “(5) TEACHER REMOVAL.—Developing and im-
14 plementing effective mechanisms to ensure that local
15 educational agencies and schools are able to expedi-
16 tiously remove incompetent or unqualified teachers
17 consistent with procedures to ensure due process for
18 the teachers.

19 “(6) TEACHER EFFECTIVENESS.—Developing—
20 “(A) systems to measure the effectiveness
21 of teacher preparation programs and profes-
22 sional development programs; and

23 “(B) strategies to document gains in stu-
24 dent academic achievement or increases in
25 teacher mastery of the academic subject matter

1 the teachers teach, as a result of such pro-
2 grams.

3 “(7) EARLY CHILDHOOD EDUCATORS.—Devel-
4 oping strategies to improve and expand teacher
5 preparation programs for early childhood educators
6 to teach in early childhood education programs.

7 “(8) PROFESSIONAL DEVELOPMENT.—Devel-
8 oping and enhancing high-quality professional devel-
9 opment, instructional materials, and relevant edu-
10 cational materials.

11 “(9) TECHNOLOGY.—Assisting teachers to use
12 technology effectively, including use for instructional
13 techniques and the collection, management, and
14 analysis of data to improve teaching, learning, and
15 decision making for the purpose of increasing stu-
16 dent academic achievement.

17 “(10) AREAS OF INSTRUCTIONAL SHORTAGE.—
18 Increasing the number of—

19 “(A) teachers in the classroom providing
20 instruction in high-need academic subject areas
21 (such as reading, mathematics, science, and for-
22 eign language, including less commonly taught
23 languages) and high-need areas (such as special
24 education, language instruction educational pro-

1 grams for limited English proficient students,
2 and early childhood education); and

3 “(B) special education faculty dedicated to
4 preparing highly qualified special education
5 teachers at institutions of higher education.

6 “(11) TECHNICAL ASSISTANCE.—Providing
7 technical assistance to low-performing programs of
8 teacher preparation within institutions of higher
9 education identified under section 207(a).

10 “(12) EVALUATION SUPPORT.—Performing
11 data collection, evaluation, and reporting to meet the
12 requirements of subsection (d)(3).

13 “(13) PROFESSIONAL ADVANCEMENT.—Devel-
14 oping a professional advancement system to—

15 “(A) initiate or enhance a system in which
16 highly qualified teachers who pursue advanced
17 licensure levels are required to demonstrate in-
18 creased competencies and undertake increased
19 responsibilities for increased compensation as
20 the teachers progress through levels established
21 by the State; or

22 “(B) provide opportunities for professional
23 growth, including through—

24 “(i) a nationally recognized advance
25 credentialing system; or

1 “(ii) special certification in advanced
2 placement or international baccalaureate
3 content, teaching gifted and talented stu-
4 dents, and pedagogy.

5 “(f) SUPPLEMENT, NOT SUPPLANT.—Funds made
6 available under this section shall be used to supplement,
7 and not supplant, other Federal, State, and local funds
8 that would otherwise be expended to carry out activities
9 under this section.

10 **“SEC. 203. PARTNERSHIP GRANTS.**

11 “(a) GRANTS.—From amounts made available under
12 section 209(a)(2) for a fiscal year, the Secretary is author-
13 ized to award grants under this section, on a competitive
14 basis, to eligible partnerships to enable the eligible part-
15 nerships to carry out the activities described in subsections
16 (e) and (f).

17 “(b) DEFINITIONS.—

18 “(1) ELIGIBLE PARTNERSHIP.—

19 “(A) IN GENERAL.—In this part, the term
20 ‘eligible partnership’ means an entity that shall
21 include—

22 “(i) a partner institution;

23 “(ii) a school of arts and sciences;

1 “(iii) a high-need local educational
2 agency and a school or a consortium of
3 schools served by the agency; and

4 “(iv) at least 1 individual or entity de-
5 scribed in subparagraph (B).

6 “(B) ADDITIONAL INDIVIDUALS AND ENTI-
7 TIES.—In this part, the term ‘eligible partner-
8 ship’ means an entity that shall include at least
9 1 of the following:

10 “(i) A Governor.

11 “(ii) A State educational agency.

12 “(iii) A State board of education.

13 “(iv) A State agency for higher edu-
14 cation.

15 “(v) A school or department within
16 the partner institution focusing on edu-
17 cation, psychology, human development, or
18 a department with comparable expertise in
19 the disciplines of teaching, learning, and
20 child and adolescent development.

21 “(vi) An institution of higher edu-
22 cation or a department within such institu-
23 tion, not described in subparagraph (A).

24 “(vii) A public charter school.

1 “(viii) A public or private elementary
2 school or secondary school.

3 “(ix) A public or private nonprofit
4 educational organization.

5 “(x) A business.

6 “(xi) A science-, mathematics-, or
7 technology-oriented entity.

8 “(xii) An early childhood education
9 program.

10 “(xiii) A teacher organization.

11 “(xiv) An educational service agency.

12 “(xv) A consortium of local edu-
13 cational agencies.

14 “(xvi) A nonprofit telecommunications
15 entity.

16 “(2) PARTNER INSTITUTION.—In this section,
17 the term ‘partner institution’ means an institution of
18 higher education, which may include a 2-year insti-
19 tution of higher education offering a dual program
20 with a 4-year institution of higher education, that
21 has a teacher preparation program—

22 “(A) whose graduates exhibit strong per-
23 formance on State-determined qualifying assess-
24 ments for new teachers through—

1 “(i) demonstrating that 80 percent or
2 more of the graduates of the program who
3 intend to enter the field of teaching have
4 passed all of the applicable State qualifica-
5 tion assessments for new teachers, which
6 shall include an assessment of each pro-
7 spective teacher’s subject matter knowledge
8 in the content area in which the teacher in-
9 tends to teach; or

10 “(ii) being ranked among the highest-
11 performing teacher preparation programs
12 in the State as determined by the State—

13 “(I) using criteria consistent with
14 the requirements for the State report
15 card under section 206(b); and

16 “(II) using the State report card
17 on teacher preparation required under
18 section 206(b), after the first publica-
19 tion of such report card and for every
20 year thereafter; or

21 “(B) that requires all the students of the
22 program to meet high academic standards and
23 participate in intensive clinical experience,
24 and—

1 “(i) in the case of secondary school
2 candidates, to successfully complete—

3 “(I) a major or its equivalent in
4 coursework in the academic subject
5 area in which the candidate intends to
6 teach; or

7 “(II) a related major in the aca-
8 demic subject area in which the can-
9 didate intends to teach;

10 “(ii) in the case of elementary school
11 candidates, to successfully complete—

12 “(I) an academic major or its
13 equivalent in coursework in the arts
14 and sciences; or

15 “(II) a major in elementary edu-
16 cation with a significant amount of
17 coursework in the arts and sciences;
18 and

19 “(iii) in the case of early childhood
20 educators, to become fully competent and
21 meet degree requirements, as established
22 by the State.

23 “(c) APPLICATION.—Each eligible partnership desir-
24 ing a grant under this section shall submit an application
25 to the Secretary at such time, in such manner, and accom-

1 panied by such information as the Secretary may require.

2 Each such application shall contain—

3 “(1) a needs assessment of all the partners with
4 respect to the preparation, induction, and profes-
5 sional development of early childhood educators,
6 general and special education teachers, and prin-
7 cipals;

8 “(2) a description of the extent to which the
9 teacher preparation program of the eligible partner-
10 ship prepares new teachers with effective teaching
11 skills;

12 “(3) a description of how the eligible partner-
13 ship will coordinate with other teacher preparation
14 or professional development programs, including
15 those funded under the Elementary and Secondary
16 Education Act of 1965 and the Individuals with Dis-
17 abilities Education Act, and how the activities of the
18 eligible partnership will be consistent with State,
19 local, and other education reform activities that pro-
20 mote student achievement;

21 “(4) a resource assessment that describes the
22 resources available to the eligible partnership, the in-
23 tended use of the grant funds (including a descrip-
24 tion of how the grant funds will be fairly distrib-
25 uted), and the commitment of the resources of the

1 eligible partnership to the activities assisted under
2 this part, including financial support, faculty partici-
3 pation, time commitments, and continuation of the
4 activities when the grant period ends;

5 “(5) a description of—

6 “(A) how the eligible partnership will meet
7 the purposes of this part;

8 “(B) how the eligible partnership will carry
9 out the activities required under subsection (e)
10 and any permissible activities under subsection
11 (f);

12 “(C) the eligible partnership’s evaluation
13 plan pursuant to section 205(b);

14 “(D) how the eligible partnership will align
15 the teacher preparation program with the chal-
16 lenging student academic achievement stand-
17 ards, State early learning standards for early
18 childhood education programs (where applica-
19 ble), and challenging academic content stand-
20 ards, established by the State in which the
21 partnership is located;

22 “(E) how faculty of the teacher prepara-
23 tion program at the partner institution will
24 serve, over the period of the grant, with highly
25 qualified teachers in the classrooms of the high-

1 need local educational agency included in the el-
2 igible partnership;

3 “(F) how the eligible partnership will en-
4 sure that teachers, principals, and superintend-
5 ents in all schools (including private schools, as
6 appropriate) located in the geographic areas
7 served by an eligible partnership under this sec-
8 tion are provided information about the activi-
9 ties carried out with funds under this section,
10 including through electronic means;

11 “(G) how the eligible partnership will de-
12 sign, implement, or enhance the clinical pro-
13 gram component, including promoting close su-
14 pervision of student teachers by faculty of the
15 teacher preparation program and mentor teach-
16 ers while in the program and during the stu-
17 dent teachers’ initial years of teaching if hired
18 by schools included in the eligible partnership;

19 “(H) how the eligible partnership will de-
20 velop or enhance an induction program that in-
21 cludes high-quality professional development to
22 support new teachers during the teachers’ ini-
23 tial years of teaching that includes teacher
24 mentoring and collaborating with teachers in
25 the same grade, department, or field; and

1 “(I) how the eligible partnership will col-
2 lect, analyze, use, and disseminate data on the
3 retention of all teachers in schools located in
4 the geographic areas served by the eligible part-
5 nership to evaluate the effectiveness of its
6 teacher support system; and

7 “(6) an assurance that the eligible partnership
8 will carry out each of the activities described in
9 paragraph (5).

10 “(d) CONSULTATION.—

11 “(1) IN GENERAL.—Members of an eligible
12 partnership that receives a grant under this section
13 shall engage in regular consultation throughout the
14 development and implementation of programs and
15 activities under this section.

16 “(2) REGULAR COMMUNICATION.—To ensure
17 timely and meaningful consultation, regular commu-
18 nication shall occur among all members of the eligi-
19 ble partnership, including the high-need local edu-
20 cational agency. Such communication shall continue
21 throughout the implementation of the grant and the
22 assessment of programs and activities under this
23 section.

24 “(3) WRITTEN CONSENT.—The Secretary may
25 approve changes in grant activities only if a written

1 consent signed by all members of the eligible part-
2 nership is submitted to the Secretary.

3 “(e) REQUIRED USES OF FUNDS.—An eligible part-
4 nership that receives a grant under this section shall use
5 the grant funds to carry out each of the following activi-
6 ties:

7 “(1) REFORMS.—Ensuring that each teacher
8 preparation program and each early childhood edu-
9 cator preparation program, where applicable, of the
10 eligible partnership that is assisted under this sec-
11 tion addresses the needs identified in the needs as-
12 sessment of the partnership and is preparing current
13 or prospective teachers to be highly qualified, and,
14 where applicable, early childhood educators to be
15 fully competent, to understand scientifically based
16 research and its applicability, and to use technology
17 effectively, including use of instructional techniques
18 to improve student academic achievement, and in the
19 case of early childhood educators, techniques to im-
20 prove children’s cognitive, social, emotional, and
21 physical development, by assisting such programs—

22 “(A) in retraining faculty;

23 “(B) in designing (or redesigning) teacher
24 preparation programs so that such programs—

1 “(i) are based on rigorous academic
2 content and scientifically based research
3 (including scientifically based reading re-
4 search), and aligned with challenging State
5 academic content standards, as required
6 under section 1111(b)(1) of the Elemen-
7 tary and Secondary Education Act of
8 1965, and for early childhood educators,
9 aligned with State early learning stand-
10 ards;

11 “(ii) promote effective teaching skills;

12 “(iii) promote understanding of effec-
13 tive instructional strategies for students
14 with special needs, including students with
15 disabilities, students who are limited
16 English proficient, students who are gifted
17 and talented, and children in early child-
18 hood education programs; and

19 “(iv) promote high-quality mathe-
20 matics, science, and foreign language in-
21 struction, where applicable;

22 “(C) in ensuring collaboration with depart-
23 ments, programs, or units outside of the teach-
24 er preparation program in all academic content

1 areas to ensure a successful combination of
2 training in both teaching and such content; and

3 “(D) in developing high-quality, rigorous
4 clinical experiences, lasting not less than 1
5 term, through dissemination of best practices,
6 technical assistance, or other relevant activities.

7 “(2) CLINICAL EXPERIENCE AND INTER-
8 ACTION.—Improving sustained and high-quality
9 preservice clinical experiences, including—

10 “(A) providing teacher mentoring; and

11 “(B) substantially increasing interaction
12 between faculty at institutions of higher edu-
13 cation and new and experienced teachers, prin-
14 cipals, and other administrators at elementary
15 schools or secondary schools, and providing sup-
16 port, including preparation time and release
17 time, for such interaction.

18 “(3) SUPPORT PROGRAMS FOR NEW TEACH-
19 ERS.—Creating a program to support new teachers
20 during the initial years of teaching (for not less than
21 1 year and not more than 3 years). Such program
22 shall promote effective teaching skills and may in-
23 clude the following components:

1 “(A) Development of skills in educational
2 interventions based on scientifically based re-
3 search.

4 “(B) Development of knowledge of scientif-
5 ically based research on teaching and learning.

6 “(C) Inclusion of faculty who model the in-
7 tegration of research and practice in the class-
8 room.

9 “(D) Opportunities for—

10 “(i) high-quality teacher mentoring;
11 and

12 “(ii) additional professional develop-
13 ment, dissemination of evidence-based re-
14 search on educational practices, and pro-
15 fessional development activities.

16 “(E) Interdisciplinary collaboration among
17 exemplary teachers, faculty, researchers, and
18 other staff who prepare new teachers in the
19 learning process and the assessment of learn-
20 ing.

21 “(f) ALLOWABLE USES OF FUNDS.—An eligible part-
22 nership that receives a grant under this section may use
23 the grant funds to carry out any of the following activities
24 that address the needs identified in the needs assessment:

1 “(1) ALTERNATIVES TO TRADITIONAL PREPA-
2 RATION FOR TEACHING AND STATE CERTIFICATION
3 OR LICENSURE.—The activity described in section
4 202(e)(1).

5 “(2) DISSEMINATION AND COORDINATION.—
6 Broadly disseminating information on effective prac-
7 tices used by the eligible partnership, and coordi-
8 nating with the recruitment and training activities of
9 the Governor, State board of education, State agen-
10 cy for higher education, State agency responsible for
11 early childhood education, and State educational
12 agency, as appropriate.

13 “(3) INNOVATIVE PROGRAMS.—Developing in-
14 novative programs designed to provide graduates of
15 programs funded under this title with opportunities
16 to continue their education through supports and op-
17 portunities to improve instructional practices in the
18 initial years of teaching, including the following:

19 “(A) INTERNSHIPS.—

20 “(i) TEACHER PREPARATION EN-
21 HANCEMENT INTERNSHIP.—Developing a
22 1-year paid internship program for stu-
23 dents who have completed an initial teach-
24 er preparation program, or alternative
25 routes to State certification or licensure

1 program, to enable such students to de-
2 velop the skills and experience necessary
3 for success in teaching, including providing
4 intensive clinical training and combining
5 in-service instruction in teacher methods
6 and assessments with classroom observa-
7 tions, experiences, and practices. Such in-
8 terns shall have a reduced teaching load
9 and a mentor for assistance in the class-
10 room.

11 “(ii) MID-CAREER PROFESSIONAL IN-
12 TERNSHIPS.—Developing a 1-year paid in-
13 ternship program for mid-career profes-
14 sionals from other occupations, former
15 military personnel, and recent college grad-
16 uates from fields other than teacher prepa-
17 ration with records of academic distinction
18 to enable such individuals to develop the
19 skills and experience necessary for success
20 in teaching, including providing intensive
21 clinical training and combining in-service
22 instruction in teacher methods and assess-
23 ments with classroom observations, experi-
24 ences, and practices. Such interns shall

1 have a reduced teaching load and a mentor
2 for assistance in the classroom.

3 “(B) RESIDENCY PROGRAMS FOR NEW
4 TEACHERS.—Supporting teachers in a residency
5 program that provides an induction period for
6 all new general education and special education
7 teachers that includes—

8 “(i) a forum for information sharing
9 among prospective teachers, teachers, prin-
10 cipals, administrators, and participating
11 faculty in the partner institution; and

12 “(ii) the application of scientifically
13 based research on teaching and learning
14 generated by entities such as the Institute
15 of Education Sciences, and the National
16 Research Council of the National Acad-
17 emies.

18 “(C) PATHWAYS FOR PARAPROFESSIONALS
19 TO ENTER TEACHING.—Creating intensive pro-
20 grams to provide the coursework and clinical
21 experiences needed by highly qualified para-
22 professionals, as defined in section 2102 of the
23 Elementary and Secondary Education Act of
24 1965, to qualify for State teacher certification
25 or licensure to become highly qualified teachers.

1 “(4) MANAGERIAL AND LEADERSHIP SKILLS.—
2 Developing and implementing proven mechanisms to
3 provide principals and superintendents with effective
4 managerial, leadership, curricula, and instructional
5 skills that result in increased student academic
6 achievement.

7 “(5) TEACHER SCHOLARSHIPS AND SUPPORT.—
8 Providing—

9 “(A) scholarships to help students, such as
10 individuals who have been accepted by, or who
11 are enrolled in, a program of undergraduate
12 education at an institution of higher education,
13 pay the costs of tuition, room, board, and other
14 expenses of completing a teacher preparation
15 program, if—

16 “(i) the Secretary establishes such re-
17 quirements as the Secretary determines
18 necessary to ensure that recipients of
19 scholarships under this paragraph who
20 complete teacher preparation programs—

21 “(I) subsequently teach in a
22 high-need local educational agency for
23 a period of time equivalent to the pe-
24 riod of time for which the recipient re-

1 ceived the scholarship assistance, plus
2 an additional 1 year; or

3 “(II) repay the amount of the
4 scholarship if the recipient does not
5 teach as described in subclause (I);
6 and

7 “(ii) the eligible partnership provides
8 an assurance that the eligible partnership
9 will recruit minority students to become
10 highly qualified teachers;

11 “(B) support services, if needed, to enable
12 scholarship recipients to complete postsecondary
13 education programs, or to transition from a ca-
14 reer outside of the field of education into a
15 teaching career; and

16 “(C) follow-up services for former scholar-
17 ship recipients during the recipients’ initial
18 years of teaching.

19 “(6) COORDINATION WITH COMMUNITY COL-
20 LEGES.—

21 “(A) TEACHER PREPARATION PRO-
22 GRAMS.—Coordinating with 2-year institutions
23 of higher education to implement teacher prepa-
24 ration programs, including through distance

1 learning, for the purposes of allowing prospec-
2 tive teachers—

3 “(i) to obtain a bachelor’s degree and
4 State certification or licensure; and

5 “(ii) to become highly qualified teach-
6 ers.

7 “(B) PROFESSIONAL DEVELOPMENT.—Co-
8 ordinating with 2-year institutions of higher
9 education to provide professional development
10 that—

11 “(i) improves the academic content
12 knowledge of teachers in the academic sub-
13 ject areas in which the teachers are cer-
14 tified or licensed to teach, or in which the
15 teachers are working toward certification
16 or licensure to teach; and

17 “(ii) promotes effective teaching skills.

18 “(7) CLINICAL EXPERIENCE IN SCIENCE, MATH-
19 EMATICS, AND TECHNOLOGY.—Creating opportuni-
20 ties for clinical experience and training for teachers
21 and prospective teachers through participation with
22 professionals in business, research, and work envi-
23 ronments in areas relating to science, mathematics,
24 and technology, including opportunities for using
25 laboratory equipment.

1 “(8) PROFESSIONAL DEVELOPMENT.—Creating
2 opportunities for enhanced and ongoing professional
3 development for experienced general education and
4 special education teachers, early childhood edu-
5 cators, principals, administrators, and faculty.

6 “(9) TECHNOLOGY.—The activity described in
7 section 202(e)(9).

8 “(10) AREAS OF INSTRUCTIONAL SHORTAGE.—
9 Increasing the number of—

10 “(A) teachers in the classroom providing
11 instruction in high-need academic subject areas
12 (such as reading, mathematics, science, and for-
13 eign language, including less commonly taught
14 languages), and high-need areas (such as spe-
15 cial education, language instruction educational
16 programs for limited English proficient stu-
17 dents, and early childhood education);

18 “(B) special education faculty dedicated to
19 preparing highly qualified special education
20 teachers at institutions of higher education; and

21 “(C) faculty at institutions of higher edu-
22 cation with expertise in instruction of students
23 who are limited English proficient.

24 “(11) IMPROVING INSTRUCTION.—Improving
25 instruction by—

1 “(A) improving understanding and instruc-
2 tion in core academic subjects and other, spe-
3 cialized courses, such as geography, American
4 history and government, and world history; and

5 “(B) creating externships for teachers and
6 prospective teachers for field experience and
7 training through participation in business, re-
8 search, and work environments in high-need
9 academic subject areas (such as reading, math-
10 ematics, science, and foreign language, includ-
11 ing less commonly taught languages) and high-
12 need areas (such as special education, language
13 instruction educational programs for limited
14 English proficient students, and early childhood
15 education).

16 “(12) GRADUATE PROGRAMS.—Developing, in
17 collaboration with departments, programs, or units
18 of both academic content and teacher education
19 within a partner institution, master’s degree pro-
20 grams that meet the demonstrated needs of teachers
21 in the high-need local educational agency partici-
22 pating in the eligible partnership for content exper-
23 tise and teaching skills.

24 “(13) LITERACY TEACHER TRAINING.—Estab-
25 lishing and implementing a program that strength-

1 ens content knowledge and teaching skills of sec-
2 ondary school teachers in literacy that—

3 “(A) provides teacher training and sti-
4 pends for literacy coaches who train classroom
5 teachers to implement literacy programs;

6 “(B) develops or redesigns rigorous re-
7 search-based curricula that are aligned with
8 challenging State academic content standards,
9 as required under section 1111(b)(1) of the El-
10 ementary and Secondary Education Act of
11 1965, and with postsecondary standards for
12 reading and writing;

13 “(C) provides training and stipends for
14 teachers to tutor students with intense individ-
15 ualized reading, writing, and subject matter in-
16 struction during or beyond the school day;

17 “(D) provides opportunities for teachers to
18 plan and assess instruction with other teachers,
19 school leaders, and faculty at institutions of
20 higher education; and

21 “(E) establishes an evaluation and ac-
22 countability plan for activities conducted under
23 this paragraph to measure the impact of such
24 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

1 a 5-year period. Nothing in this title shall be con-
2 strued to prohibit an individual member, that can
3 demonstrate need, of an eligible partnership that re-
4 ceives a grant under this title from entering into an-
5 other eligible partnership consisting of new members
6 and receiving a grant with such other eligible part-
7 nership before the 5-year period described in the
8 preceding sentence applicable to the eligible partner-
9 ship with which the individual member has first
10 partnered has expired.

11 “(3) PAYMENTS.—The Secretary shall make
12 annual payments of grant funds awarded under this
13 part.

14 “(b) PEER REVIEW.—

15 “(1) PANEL.—The Secretary shall provide the
16 applications submitted under this part to a peer re-
17 view panel for evaluation. With respect to each ap-
18 plication, the peer review panel shall initially rec-
19 ommend the application for funding or for dis-
20 approval.

21 “(2) PRIORITY.—In recommending applications
22 to the Secretary for funding under this part, the
23 panel shall—

24 “(A) with respect to grants under section
25 202, give priority to eligible States—

1 “(i) that have innovative reforms to
2 hold institutions of higher education with
3 teacher preparation programs accountable
4 for preparing teachers to become highly
5 qualified and have effective teaching skills;

6 “(ii) that have innovative efforts
7 aimed at reducing the shortage of highly
8 qualified general and special education
9 teachers, including in low-income urban
10 and rural areas and in high-need academic
11 subject areas (such as reading, mathe-
12 matics, science, and foreign language, in-
13 cluding less commonly taught languages);
14 and

15 “(iii) whose awards promote an equi-
16 table geographic distribution of grants
17 among rural and urban areas; and

18 “(B) with respect to grants under section
19 203, give priority—

20 “(i) to applications from broad-based
21 eligible partnerships that involve busi-
22 nesses and community organizations; and

23 “(ii) to eligible partnerships so that
24 the awards promote an equitable geo-

1 graphic distribution of grants among rural
2 and urban areas.

3 “(3) SECRETARIAL SELECTION.—The Secretary
4 shall determine, based on the peer review process,
5 which applications shall receive funding and the
6 amounts of the grants. In determining grant
7 amounts, the Secretary shall take into account the
8 total amount of funds available for all grants under
9 this part and the types of activities proposed to be
10 carried out.

11 “(c) MATCHING REQUIREMENTS.—

12 “(1) STATE GRANTS.—Each eligible State re-
13 ceiving a grant under section 202 shall provide, from
14 non-Federal sources, an amount equal to 50 percent
15 of the amount of the grant (in cash or in kind) to
16 carry out the activities supported by the grant.

17 “(2) PARTNERSHIP GRANTS.—Each eligible
18 partnership receiving a grant under section 203
19 shall provide, from non-Federal sources (in cash or
20 in kind), an amount equal to 25 percent of the
21 amount of the grant for the first year of the grant,
22 35 percent of the amount of the grant for the second
23 year of the grant, and 50 percent of the amount of
24 the grant for each succeeding year of the grant.

1 “(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—
2 An eligible State or eligible partnership that receives a
3 grant under this part may use not more than 2 percent
4 of the grant funds for purposes of administering the grant.

5 “(e) ADDITIONAL ACTIVITIES.—The Secretary shall
6 use funds repaid pursuant to section 202(e)(4)(A)(i)(II)
7 or section 203(f)(5)(A)(i)(II) to carry out additional ac-
8 tivities under section 202 or 203, respectively.

9 **“SEC. 205. ACCOUNTABILITY AND EVALUATION.**

10 “(a) STATE GRANT ACCOUNTABILITY REPORT.—An
11 eligible State that receives a grant under section 202 shall
12 submit an annual accountability report to the Secretary
13 and the authorizing committees. Such report shall include
14 a description of the degree to which the eligible State, in
15 using funds provided under such section, has made
16 progress in meeting the purposes of this part and substan-
17 tial progress in meeting the following goals, as applicable:

18 “(1) STUDENT ACADEMIC ACHIEVEMENT.—In-
19 creasing student academic achievement for all stu-
20 dents as defined by the eligible State.

21 “(2) RAISING STANDARDS.—Raising the State
22 academic standards required to enter the teaching
23 profession as a highly qualified teacher, and where
24 applicable, as a fully competent early childhood edu-
25 cator.

1 “(3) INITIAL CERTIFICATION OR LICENSURE.—
2 Improving the pass rates and scaled scores for initial
3 State teacher certification or licensure, or increasing
4 the numbers of qualified individuals being certified
5 or licensed as teachers through alternative routes to
6 State certification or licensure programs.

7 “(4) PERCENTAGE OF HIGHLY QUALIFIED
8 TEACHERS.—Providing data on the progress of the
9 State towards meeting the highly qualified teacher
10 requirements under section 1119(a)(2) of the Ele-
11 mentary and Secondary Education Act of 1965.

12 “(5) DECREASING TEACHER SHORTAGES.—De-
13 creasing shortages of—

14 “(A) highly qualified teachers in—

15 “(i) low-income urban and rural
16 areas;

17 “(ii) high-need academic subject areas
18 (such as reading, mathematics, science,
19 and foreign language, including less com-
20 monly taught languages);

21 “(iii) special education; and

22 “(iv) high-need areas (such as special
23 education, language instruction educational
24 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;

1 “(3) improvement in the pass rates and scaled
2 scores for initial State certification or licensure of
3 teachers;

4 “(4) the percentage of highly qualified teachers
5 hired by the high-need local educational agency par-
6 ticipating in the eligible partnership; and

7 “(5) the percentage of—

8 “(A) highly qualified teachers among
9 underrepresented groups, in high-need academic
10 subject areas (such as reading, mathematics,
11 science, and foreign language, including less
12 commonly taught languages), in high-need
13 areas (such as special education, language in-
14 struction educational programs for limited
15 English proficient students, and early childhood
16 education), and in high-need schools;

17 “(B) elementary school, middle school, and
18 secondary school classes taught by teachers who
19 are highly qualified;

20 “(C) early childhood education program
21 classes taught by providers who are fully com-
22 petent; and

23 “(D) highly qualified special education
24 teachers.

25 “(c) REVOCATION OF GRANT.—

1 “(1) ELIGIBLE STATES.—If the Secretary de-
2 termines that an eligible State is not making sub-
3 stantial progress in meeting the purposes, goals, ob-
4 jectives, and measures, as appropriate, by the end of
5 the second year of a grant under this part, then the
6 grant payment shall not be made for the third year
7 of the grant.

8 “(2) ELIGIBLE PARTNERSHIPS.—If the Sec-
9 retary determines that an eligible partnership is not
10 making substantial progress in meeting the pur-
11 poses, goals, objectives, and measures, as appro-
12 priate, by the end of the third year of a grant under
13 this part, then the grant payments shall not be made
14 for any succeeding year of the grant.

15 “(d) EVALUATION AND DISSEMINATION.—The Sec-
16 retary shall evaluate the activities funded under this part
17 and report the Secretary’s findings regarding the activities
18 to the authorizing committees. The Secretary shall broadly
19 disseminate—

20 “(1) successful practices developed by eligible
21 States and eligible partnerships under this part; and

22 “(2) information regarding such practices that
23 were found to be ineffective.

1 **“SEC. 206. ACCOUNTABILITY FOR PROGRAMS THAT PRE-**
2 **PARE TEACHERS.**

3 “(a) INSTITUTIONAL AND PROGRAM REPORT CARDS
4 ON THE QUALITY OF TEACHER PREPARATION.—

5 “(1) REPORT CARD.—Each institution of higher
6 education that conducts a traditional teacher prepa-
7 ration program or alternative routes to State certifi-
8 cation or licensure program and that enrolls stu-
9 dents receiving Federal assistance under this Act
10 shall report annually to the State and the general
11 public, in a uniform and comprehensible manner
12 that conforms with the definitions and methods es-
13 tablished by the Secretary, both for traditional
14 teacher preparation programs and alternative routes
15 to State certification or licensure programs, the fol-
16 lowing information:

17 “(A) PASS RATES AND SCALED SCORES.—

18 For the most recent year for which the informa-
19 tion is available for those students who took the
20 assessments and are enrolled in the traditional
21 teacher preparation program or alternative
22 routes to State certification or licensure pro-
23 gram, and for those who have taken the assess-
24 ments and have completed the traditional teach-
25 er preparation program or alternative routes to
26 State certification or licensure program during

1 the 2-year period preceding such year, for each
2 of the assessments used for teacher certification
3 or licensure by the State in which the program
4 is located—

5 “(i) the percentage of students who
6 have completed 100 percent of the nonclin-
7 ical coursework and taken the assessment
8 who pass such assessment;

9 “(ii) the percentage of all such stu-
10 dents who passed each such assessment;

11 “(iii) the percentage of students tak-
12 ing an assessment who completed the
13 teacher preparation program after enroll-
14 ing in the program, which shall be made
15 available widely and publicly by the State;

16 “(iv) the average scaled score for all
17 students who took each such assessment;

18 “(v) a comparison of the program’s
19 pass rates with the average pass rates for
20 programs in the State; and

21 “(vi) a comparison of the program’s
22 average scaled scores with the average
23 scaled scores for programs in the State.

24 “(B) PROGRAM INFORMATION.—The cri-
25 teria for admission into the program, the num-

1 ber of students in the program (disaggregated
2 by race and gender), the average number of
3 hours of supervised clinical experience required
4 for those in the program, the number of full-
5 time equivalent faculty and students in the su-
6 pervised clinical experience, and the total num-
7 ber of students who have been certified or li-
8 censed as teachers, disaggregated by subject
9 and area of certification or licensure.

10 “(C) STATEMENT.—In States that require
11 approval or accreditation of teacher preparation
12 programs, a statement of whether the institu-
13 tion’s program is so approved or accredited,
14 and by whom.

15 “(D) DESIGNATION AS LOW-PER-
16 FORMING.—Whether the program has been des-
17 ignated as low-performing by the State under
18 section 207(a).

19 “(E) USE OF TECHNOLOGY.—A descrip-
20 tion of the activities that prepare teachers to ef-
21 fectively integrate technology into curricula and
22 instruction and effectively use technology to col-
23 lect, manage, and analyze data in order to im-
24 prove teaching, learning, and decision making

1 for the purpose of increasing student academic
2 achievement.

3 “(2) REPORT.—Each eligible partnership re-
4 ceiving a grant under section 203 shall report annu-
5 ally on the progress of the eligible partnership to-
6 ward meeting the purposes of this part and the ob-
7 jectives and measures described in section 205(b).

8 “(3) FINES.—The Secretary may impose a fine
9 not to exceed \$25,000 on an institution of higher
10 education for failure to provide the information de-
11 scribed in this subsection in a timely or accurate
12 manner.

13 “(4) SPECIAL RULE.—In the case of an institu-
14 tion of higher education that conducts a traditional
15 teacher preparation program or alternative routes to
16 State certification or licensure program and has
17 fewer than 10 scores reported on any single initial
18 teacher certification or licensure assessment during
19 an academic year, the institution shall collect and
20 publish information, as required under paragraph
21 (1)(A), with respect to an average pass rate and
22 scaled score on each State certification or licensure
23 assessment taken over a 3-year period.

24 “(b) STATE REPORT CARD ON THE QUALITY OF
25 TEACHER PREPARATION.—

1 “(1) IN GENERAL.—Each State that receives
2 funds under this Act shall provide to the Secretary,
3 annually, in a uniform and comprehensible manner
4 that conforms with the definitions and methods es-
5 tablished by the Secretary, a State report card on
6 the quality of teacher preparation in the State, both
7 for traditional teacher preparation programs and for
8 alternative routes to State certification or licensure
9 programs, which shall include not less than the fol-
10 lowing:

11 “(A) A description of reliability and valid-
12 ity of the teacher certification and licensure as-
13 sessments, and any other certification and licen-
14 sure requirements, used by the State.

15 “(B) The standards and criteria that pro-
16 spective teachers must meet in order to attain
17 initial teacher certification or licensure and to
18 be certified or licensed to teach particular aca-
19 demic subject areas or in particular grades
20 within the State.

21 “(C) A description of how the assessments
22 and requirements described in subparagraph
23 (A) are aligned with the State’s challenging
24 academic content standards required under sec-
25 tion 1111(b)(1) of the Elementary and Sec-

1 ondary Education Act of 1965 and State early
2 learning standards for early childhood education
3 programs.

4 “(D) For each of the assessments used by
5 the State for teacher certification or licensure—

6 “(i) for each institution of higher edu-
7 cation located in the State and each entity
8 located in the State that offers an alter-
9 native route for teacher certification or li-
10 censure, the percentage of students at such
11 institution or entity who have completed
12 100 percent of the nonclinical coursework
13 and taken the assessment who pass such
14 assessment;

15 “(ii) the percentage of all such stu-
16 dents at all such institutions taking the as-
17 sessment who pass such assessment; and

18 “(iii) the percentage of students tak-
19 ing an assessment who completed the
20 teacher preparation program after enroll-
21 ing in the program, which shall be made
22 available widely and publicly by the State.

23 “(E) A description of alternative routes to
24 State certification or licensure in the State (in-
25 cluding any such routes operated by entities

1 that are not institutions of higher education), if
2 any, including, for each of the assessments used
3 by the State for teacher certification or licen-
4 sure—

5 “(i) the percentage of individuals par-
6 ticipating in such routes, or who have com-
7 pleted such routes during the 2-year period
8 preceding the date of the determination,
9 who passed each such assessment; and

10 “(ii) the average scaled score of indi-
11 viduals participating in such routes, or who
12 have completed such routes during the pe-
13 riod preceding the date of the determina-
14 tion, who took each such assessment.

15 “(F) A description of the State’s criteria
16 for assessing the performance of teacher prepa-
17 ration programs within institutions of higher
18 education in the State. Such criteria shall in-
19 clude indicators of the academic content knowl-
20 edge and teaching skills of students enrolled in
21 such programs.

22 “(G) For each teacher preparation pro-
23 gram in the State, the criteria for admission
24 into the program, the number of students in the
25 program, disaggregated by race and gender (ex-

1 cept that such disaggregation shall not be re-
2 quired in a case in which the number of stu-
3 dents in a category is insufficient to yield sta-
4 tistically reliable information or the results
5 would reveal personally identifiable information
6 about an individual student), the average num-
7 ber of hours of supervised clinical experience re-
8 quired for those in the program, and the num-
9 ber of full-time equivalent faculty, adjunct fac-
10 ulty, and students in supervised clinical experi-
11 ence.

12 “(H) For the State as a whole, and for
13 each teacher preparation program in the State,
14 the number of teachers prepared, in the aggre-
15 gate and reported separately by—

16 “(i) area of certification or licensure;

17 “(ii) academic major; and

18 “(iii) subject area for which the teach-
19 er has been prepared to teach.

20 “(I) Using the data generated under sub-
21 paragraphs (G) and (H), a description of the
22 extent to which teacher preparation programs
23 are helping to address shortages of highly quali-
24 fied teachers, by area of certification or licen-
25 sure, subject, and specialty, in the State’s pub-

1 lic schools, including those areas described in
2 section 205(a)(5).

3 “(J) A description of the activities that
4 prepare teachers to effectively integrate tech-
5 nology into curricula and instruction and effec-
6 tively use technology to collect, manage, and
7 analyze data in order to improve teaching,
8 learning, and decision making for the purpose
9 of increasing student academic achievement.

10 “(2) PROHIBITION AGAINST CREATING A NA-
11 TIONAL LIST.—The Secretary shall not create a na-
12 tional list or ranking of States, institutions, or
13 schools using the scaled scores provided under this
14 subsection.

15 “(c) REPORT OF THE SECRETARY ON THE QUALITY
16 OF TEACHER PREPARATION.—

17 “(1) REPORT CARD.—The Secretary shall pro-
18 vide to Congress, and publish and make widely avail-
19 able, a report card on teacher qualifications and
20 preparation in the United States, including all the
21 information reported in subparagraphs (A) through
22 (J) of subsection (b)(1). Such report shall identify
23 States for which eligible States and eligible partner-
24 ships received a grant under this part. Such report

1 shall be so provided, published, and made available
2 annually.

3 “(2) REPORT TO CONGRESS.—The Secretary
4 shall prepare and submit a report to Congress that
5 contains the following:

6 “(A) A comparison of States’ efforts to im-
7 prove the quality of the current and future
8 teaching force.

9 “(B) A comparison of eligible partnerships’
10 efforts to improve the quality of the current
11 and future teaching force.

12 “(C) The national mean and median scaled
13 scores and pass rate on any standardized test
14 that is used in more than 1 State for teacher
15 certification or licensure.

16 “(3) SPECIAL RULE.—In the case of a teacher
17 preparation program with fewer than 10 scores re-
18 ported on any single initial teacher certification or li-
19 censure assessment during an academic year, the
20 Secretary shall collect and publish information, and
21 make publicly available, with respect to an average
22 pass rate and scaled score on each State certification
23 or licensure assessment taken over a 3-year period.

24 “(d) COORDINATION.—The Secretary, to the extent
25 practicable, shall coordinate the information collected and

1 published under this part among States for individuals
2 who took State teacher certification or licensure assess-
3 ments in a State other than the State in which the indi-
4 vidual received the individual's most recent degree.

5 **“SEC. 207. STATE FUNCTIONS.**

6 “(a) STATE ASSESSMENT.—In order to receive funds
7 under this Act, a State shall have in place a procedure
8 to identify and assist, through the provision of technical
9 assistance, low-performing programs of teacher prepara-
10 tion. Such State shall provide the Secretary an annual list
11 of such low-performing teacher preparation programs that
12 includes an identification of those programs at risk of
13 being placed on such list. Such levels of performance shall
14 be determined solely by the State and may include criteria
15 based on information collected pursuant to this part. Such
16 assessment shall be described in the report under section
17 206(b).

18 “(b) TERMINATION OF ELIGIBILITY.—Any program
19 of teacher preparation from which the State has with-
20 drawn the State's approval, or terminated the State's fi-
21 nancial support, due to the low performance of the pro-
22 gram based upon the State assessment described in sub-
23 section (a)—

1 “(1) shall be ineligible for any funding for pro-
2 fessional development activities awarded by the De-
3 partment;

4 “(2) shall not be permitted to accept or enroll
5 any student that receives aid under title IV in the
6 institution’s teacher preparation program; and

7 “(3) shall provide transitional support, includ-
8 ing remedial services if necessary, for students en-
9 rolled at the institution at the time of termination
10 of financial support or withdrawal of approval.

11 “(c) **NEGOTIATED RULEMAKING.**—If the Secretary
12 develops any regulations implementing subsection (b)(2),
13 the Secretary shall submit such proposed regulations to
14 a negotiated rulemaking process, which shall include rep-
15 resentatives of States, institutions of higher education,
16 and educational and student organizations.

17 “(d) **APPLICATION OF THE REQUIREMENTS.**—The
18 requirements of this section shall apply to both traditional
19 teacher preparation programs and alternative routes to
20 State certification and licensure programs.

21 **“SEC. 208. GENERAL PROVISIONS.**

22 “(a) **METHODS.**—In complying with sections 206 and
23 207, the Secretary shall ensure that States and institu-
24 tions of higher education use fair and equitable methods

1 in reporting and that the reporting methods do not allow
2 identification of individuals.

3 “(b) SPECIAL RULE.—For each State that does not
4 use content assessments as a means of ensuring that all
5 teachers teaching in core academic subjects within the
6 State are highly qualified not later than the end of the
7 2005-2006 school year, as required under section 1119 of
8 the Elementary and Secondary Education Act of 1965,
9 and that each person employed as a special education
10 teacher in the State who teaches elementary school, middle
11 school, or secondary school is highly qualified by such
12 deadline, as required under section 612(a)(14)(C) of the
13 Individuals with Disabilities Education Act,—

14 “(1) the Secretary shall, to the extent prac-
15 ticable, collect data comparable to the data required
16 under this part from States, local educational agen-
17 cies, institutions of higher education, or other enti-
18 ties that administer such assessments to teachers or
19 prospective teachers; and

20 “(2) notwithstanding any other provision of this
21 part, the Secretary shall use such data to carry out
22 requirements of this part related to assessments,
23 pass rates, and scaled scores.

24 “(c) LIMITATIONS.—

1 “(1) FEDERAL CONTROL PROHIBITED.—Noth-
2 ing in this title shall be construed to permit, allow,
3 encourage, or authorize any Federal control over any
4 aspect of any private, religious, or home school,
5 whether or not a home school is treated as a private
6 school or home school under State law. This section
7 shall not be construed to prohibit private, religious,
8 or home schools from participation in programs or
9 services under this title.

10 “(2) NO CHANGE IN STATE CONTROL ENCOUR-
11 AGED OR REQUIRED.—Nothing in this title shall be
12 construed to encourage or require any change in a
13 State’s treatment of any private, religious, or home
14 school, whether or not a home school is treated as
15 a private school or home school under State law.

16 “(3) NATIONAL SYSTEM OF TEACHER CERTIFI-
17 CATION OR LICENSURE PROHIBITED.—Nothing in
18 this title shall be construed to permit, allow, encour-
19 age, or authorize the Secretary to establish or sup-
20 port any national system of teacher certification or
21 licensure.

22 “(d) RELEASE OF INFORMATION TO TEACHER PREP-
23 ARATION PROGRAMS.—

24 “(1) IN GENERAL.—For the purpose of improv-
25 ing teacher preparation programs, a State edu-

1 cational agency shall provide to a teacher prepara-
2 tion program, upon the request of the teacher prepa-
3 ration program, any and all pertinent education-re-
4 lated information that—

5 “(A) may enable the teacher preparation
6 program to evaluate the effectiveness of the
7 program’s graduates or the program itself; and

8 “(B) is possessed, controlled, or accessible
9 by the State educational agency.

10 “(2) CONTENT OF INFORMATION.—The infor-
11 mation described in paragraph (1)—

12 “(A) shall include an identification of spe-
13 cific individuals who graduated from the teach-
14 er preparation program to enable the teacher
15 preparation program to evaluate the informa-
16 tion provided to the program from the State
17 educational agency with the program’s own
18 data about the specific courses taken by, and
19 field experiences of, the individual graduates;
20 and

21 “(B) may include—

22 “(i) kindergarten through grade 12
23 academic achievement and demographic
24 data, without revealing personally identifi-
25 able information about an individual stu-

1 dent, for students who have been taught by
 2 graduates of the teacher preparation pro-
 3 gram; and

4 “(ii) teacher effectiveness evaluations
 5 for teachers who graduated from the teach-
 6 er preparation program.

7 **“SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

8 “(a) IN GENERAL.—There are authorized to be ap-
 9 propriated to carry out this part such sums as may be
 10 necessary for fiscal year 2006 and each of the 5 suc-
 11 ceeding fiscal years, of which—

12 “(1) 50 percent shall be available for each fiscal
 13 year to award grants under section 202; and

14 “(2) 50 percent shall be available for each fiscal
 15 year to award grants under section 203.

16 “(b) SPECIAL RULE.—If the Secretary determines
 17 that there is an insufficient number of meritorious appli-
 18 cations for grants under section 202 or 203 to justify
 19 awarding the full amount described in paragraph (1) or
 20 (2) of subsection (a), respectively, the Secretary may, after
 21 funding the meritorious applications, use the remaining
 22 funds for grants under the other such section.”.

23 **CHAPTER 4—INSTITUTIONAL AID**

24 **SEC. 7341. PROGRAM PURPOSE.**

25 Section 311 (20 U.S.C. 1057) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (1), by striking “351”
3 and inserting “391”; and

4 (B) in paragraph (3)(F), by inserting “,
5 including services that will assist in the edu-
6 cation of special populations” before the period;
7 and

8 (2) in subsection (c)—

9 (A) in paragraph (6), by inserting “, in-
10 cluding innovative, customized, remedial edu-
11 cation and English language instruction courses
12 designed to help retain students and move the
13 students rapidly into core courses and through
14 program completion” before the period;

15 (B) by redesignating paragraphs (7)
16 through (12) as paragraphs (8) through (13),
17 respectively;

18 (C) by inserting after paragraph (6) the
19 following:

20 “(7) Education or counseling services designed
21 to improve the financial literacy and economic lit-
22 eracy of students or the students’ parents.”; and

23 (D) in the matter preceding subparagraph

24 (A) of paragraph (13) (as redesignated by sub-

1 paragraph (B)), by striking “subsection (c)”
2 and inserting “subsection (b) and section 391”.

3 **SEC. 7342. DEFINITIONS; ELIGIBILITY.**

4 Section 312 (20 U.S.C. 1058) is amended—

5 (1) in subsection (b)(1)(A), by striking “sub-
6 section (c) of this section” and inserting “subsection
7 (d)”; and

8 (2) in subsection (d)(2), by striking “subdivi-
9 sion” and inserting “paragraph”.

10 **SEC. 7343. AMERICAN INDIAN TRIBALLY CONTROLLED COL-
11 LEGES AND UNIVERSITIES.**

12 Section 316 (20 U.S.C. 1059c) is amended—

13 (1) by striking subsection (b)(3) and inserting
14 the following:

15 “(3) TRIBAL COLLEGE OR UNIVERSITY.—The
16 term ‘Tribal College or University’ means an institu-
17 tion that—

18 “(A) qualifies for funding under the Trib-
19 ally Controlled College or University Assistance
20 Act of 1978 (25 U.S.C. 1801 et seq.) or the
21 Navajo Community College Assistance Act of
22 1978 (25 U.S.C. 640a note); or

23 “(B) is cited in section 532 of the Equity
24 in Educational Land-Grant Status Act of 1994
25 (7 U.S.C. 301 note).”;

1 (2) in subsection (c)(2)—

2 (A) in subparagraph (B), by inserting be-
3 fore the semicolon at the end the following:
4 “and the acquisition of real property adjacent
5 to the campus of the institution”;

6 (B) by redesignating subparagraphs (G),
7 (H), (I), (J), (K), and (L) as subparagraphs
8 (H), (I), (J), (K), (L), and (N), respectively;

9 (C) by inserting after subparagraph (F)
10 the following:

11 “(G) education or counseling services de-
12 signed to improve the financial literacy and eco-
13 nomic literacy of students or parents of stu-
14 dents;”;

15 (D) in subparagraph (L) (as redesignated
16 by subparagraph (B)), by striking “and” after
17 the semicolon;

18 (E) by inserting after subparagraph (L)
19 (as redesignated by subparagraph (B)) the fol-
20 lowing:

21 “(M) developing or improving facilities for
22 Internet use or other distance learning aca-
23 demic instruction capabilities; and”;

24 (F) in subparagraph (N) (as redesignated
25 by subparagraph (B)), by striking “subpara-

1 graphs (A) through (K)” and inserting “sub-
2 paragraphs (A) through (M)”;

3 (3) by striking subsection (d) and inserting the
4 following:

5 “(d) APPLICATION, PLAN, AND ALLOCATION.—

6 “(1) INSTITUTIONAL ELIGIBILITY.—To be eligi-
7 ble to receive assistance under this section, a Tribal
8 College or University shall be an eligible institution
9 under section 312(b).

10 “(2) APPLICATION.—

11 “(A) IN GENERAL.—A Tribal College or
12 University desiring to receive assistance under
13 this section shall submit an application to the
14 Secretary at such time, and in such manner, as
15 the Secretary may reasonably require.

16 “(B) STREAMLINED PROCESS.—The Sec-
17 retary shall establish application requirements
18 in such a manner as to simplify and streamline
19 the process for applying for grants.

20 “(3) ALLOCATIONS TO INSTITUTIONS.—

21 “(A) CONSTRUCTION GRANTS.—

22 “(i) IN GENERAL.—Of the amount ap-
23 propriated to carry out this section for any
24 fiscal year, the Secretary may reserve 30
25 percent for the purpose of awarding 1-year

1 grants of not less than \$1,000,000 to ad-
2 dress construction, maintenance, and ren-
3 ovation needs at eligible institutions.

4 “(ii) PREFERENCE.—In providing
5 grants under clause (i), the Secretary shall
6 give preference to eligible institutions that
7 have not yet received an award under this
8 section.

9 “(B) ALLOTMENT OF REMAINING
10 FUNDS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the Secretary shall dis-
13 tribute the remaining funds appropriated
14 for any fiscal year to each eligible institu-
15 tion as follows:

16 “(I) 60 percent of the remaining
17 appropriated funds shall be distrib-
18 uted among the eligible Tribal Col-
19 leges and Universities on a pro rata
20 basis, based on the respective Indian
21 student counts (as defined in section
22 2(a) of the Tribally Controlled College
23 or University Assistance Act of 1978
24 (25 U.S.C. 1801(a)) of the Tribal
25 Colleges and Universities; and

1 “(II) the remaining 40 percent
2 shall be distributed in equal shares to
3 the eligible Tribal Colleges and Uni-
4 versities.

5 “(ii) MINIMUM GRANT.—The amount
6 distributed to a Tribal College or Univer-
7 sity under clause (i) shall not be less than
8 \$500,000.

9 “(4) SPECIAL RULES.—

10 “(A) CONCURRENT FUNDING.—For the
11 purposes of this part, no Tribal College or Uni-
12 versity that is eligible for and receives funds
13 under this section shall concurrently receive
14 funds under other provisions of this part or
15 part B.

16 “(B) EXEMPTION.—Section 313(d) shall
17 not apply to institutions that are eligible to re-
18 ceive funds under this section.”.

19 **SEC. 7344. ALASKA NATIVE AND NATIVE HAWAIIAN-SERV-**
20 **ING INSTITUTIONS.**

21 Section 317(c)(2) (20 U.S.C. 1059d(c)(2)) is amend-
22 ed—

23 (1) in subparagraph (G), by striking “and”
24 after the semicolon;

1 (2) in subparagraph (H), by striking the period
2 and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(I) education or counseling services de-
5 signed to improve the financial literacy and eco-
6 nomic literacy of students or the students’ par-
7 ents.”.

8 **SEC. 7345. NATIVE AMERICAN-SERVING, NONTRIBAL INSTI-**
9 **TUTIONS.**

10 (a) GRANT PROGRAM AUTHORIZED.—Part A of title
11 III (20 U.S.C. 1057 et seq.) is amended by adding at the
12 end the following:

13 **“SEC. 318. NATIVE AMERICAN-SERVING, NONTRIBAL INSTI-**
14 **TUTIONS.**

15 “(a) PROGRAM AUTHORIZED.—The Secretary shall
16 provide grants and related assistance to Native American-
17 serving, nontribal institutions to enable such institutions
18 to improve and expand their capacity to serve Native
19 Americans.

20 “(b) DEFINITIONS.—In this section:

21 “(1) NATIVE AMERICAN.—The term ‘Native
22 American’ means an individual who is of a tribe,
23 people, or culture that is indigenous to the United
24 States.

1 “(2) NATIVE AMERICAN-SERVING, NONTRIBAL
2 INSTITUTION.—The term ‘Native American-serving,
3 nontribal institution’ means an institution of higher
4 education that, at the time of application—

5 “(A) has an enrollment of undergraduate
6 students that is not less than 10 percent Native
7 American students; and

8 “(B) is not a Tribal College or University
9 (as defined in section 316).

10 “(c) AUTHORIZED ACTIVITIES.—

11 “(1) TYPES OF ACTIVITIES AUTHORIZED.—
12 Grants awarded under this section shall be used by
13 Native American-serving, nontribal institutions to
14 assist such institutions to plan, develop, undertake,
15 and carry out activities to improve and expand such
16 institutions’ capacity to serve Native Americans.

17 “(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—
18 Such programs may include—

19 “(A) the purchase, rental, or lease of sci-
20 entific or laboratory equipment for educational
21 purposes, including instructional and research
22 purposes;

23 “(B) renovation and improvement in class-
24 room, library, laboratory, and other instruc-
25 tional facilities;

1 “(C) support of faculty exchanges, and fac-
2 ulty development and faculty fellowships to as-
3 sist faculty in attaining advanced degrees in the
4 faculty’s field of instruction;

5 “(D) curriculum development and aca-
6 demic instruction;

7 “(E) the purchase of library books, peri-
8 odicals, microfilm, and other educational mate-
9 rials;

10 “(F) funds and administrative manage-
11 ment, and acquisition of equipment for use in
12 strengthening funds management;

13 “(G) the joint use of facilities such as lab-
14 oratories and libraries; and

15 “(H) academic tutoring and counseling
16 programs and student support services.

17 “(d) APPLICATION PROCESS.—

18 “(1) INSTITUTIONAL ELIGIBILITY.—A Native
19 American-serving, nontribal institution desiring to
20 receive assistance under this section shall submit to
21 the Secretary such enrollment data as may be nec-
22 essary to demonstrate that the institution is a Na-
23 tive American-serving, nontribal institution, along
24 with such other information and data as the Sec-
25 retary may by regulation require.

1 “(2) APPLICATIONS.—

2 “(A) PERMISSION TO SUBMIT APPLICA-
3 TIONS.—Any institution that is determined by
4 the Secretary to be a Native American-serving,
5 nontribal institution may submit an application
6 for assistance under this section to the Sec-
7 retary.

8 “(B) SIMPLIFIED AND STREAMLINED FOR-
9 MAT.—The Secretary shall, to the extent pos-
10 sible, prescribe a simplified and streamlined for-
11 mat for applications under this section that
12 takes into account the limited number of insti-
13 tutions that are eligible for assistance under
14 this section.

15 “(C) CONTENT.—An application submitted
16 under subparagraph (A) shall include—

17 “(i) a 5-year plan for improving the
18 assistance provided by the Native Amer-
19 ican-serving, nontribal institution to Native
20 Americans; and

21 “(ii) such other information and as-
22 surances as the Secretary may require.

23 “(3) SPECIAL RULES.—

24 “(A) ELIGIBILITY.—No Native American-
25 serving, nontribal institution that receives funds

1 under this section shall concurrently receive
2 funds under other provisions of this part or
3 part B.

4 “(B) EXEMPTION.—Section 313(d) shall
5 not apply to institutions that are eligible to re-
6 ceive funds under this section.

7 “(C) DISTRIBUTION.—In awarding grants
8 under this section, the Secretary shall, to the
9 extent possible and consistent with the competi-
10 tive process under which such grants are
11 awarded, ensure maximum and equitable dis-
12 tribution among all eligible institutions.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
14 399 (20 U.S.C. 1068h) is amended by adding at the end
15 the following:

16 “(c) MINIMUM GRANT AMOUNT.—The minimum
17 amount of a grant under this title shall be \$200,000.”.

18 **SEC. 7346. PART B DEFINITIONS.**

19 Section 322(4) (20 U.S.C. 1061(4)) is amended by
20 inserting “, in consultation with the Commissioner for
21 Education Statistics” before “and the Commissioner”.

22 **SEC. 7347. GRANTS TO INSTITUTIONS.**

23 Section 323(a) (20 U.S.C. 1062(a)) is amended—

24 (1) in the matter preceding paragraph (1), by
25 striking “360(a)(2)” and inserting “399(a)(2)”;

1 (2) by redesignating paragraphs (7) through
2 (12) as paragraphs (8) through (13), respectively;
3 and

4 (3) by inserting after paragraph (6) the fol-
5 lowing:

6 “(7) Education or counseling services designed
7 to improve the financial literacy and economic lit-
8 eracy of students or the students’ parents.”.

9 **SEC. 7348. ALLOTMENTS TO INSTITUTIONS.**

10 Section 324 (20 U.S.C. 1063) is amended by adding
11 at the end the following:

12 “(h) SPECIAL RULE ON ELIGIBILITY.—Notwith-
13 standing any other provision of this section, a part B insti-
14 tution shall not receive an allotment under this section un-
15 less the part B institution provides, on an annual basis,
16 data indicating that the part B institution—

17 “(1) enrolled Federal Pell Grant recipients in
18 the preceding academic year;

19 “(2) in the preceding academic year, has grad-
20 uated students from a program of academic study
21 that is licensed or accredited by a nationally recog-
22 nized accrediting agency or association recognized by
23 the Secretary pursuant to part H of title IV where
24 appropriate; and

1 “(3) where appropriate, has graduated students
2 who, within the past 5 years, enrolled in graduate or
3 professional school.”.

4 **SEC. 7349. PROFESSIONAL OR GRADUATE INSTITUTIONS.**

5 Section 326 (20 U.S.C. 1063b) is amended—

6 (1) in subsection (c)—

7 (A) in paragraph (2), by inserting “, and
8 for the acquisition and development of real
9 property that is adjacent to the campus for
10 such construction, maintenance, renovation, or
11 improvement” after “services”;

12 (B) by redesignating paragraphs (5)
13 through (7) as paragraphs (7) through (9), re-
14 spectively;

15 (C) by inserting after paragraph (4) the
16 following:

17 “(5) tutoring, counseling, and student service
18 programs designed to improve academic success;

19 “(6) education or counseling services designed
20 to improve the financial literacy and economic lit-
21 eracy of students or the students’ parents;”;

22 (D) in paragraph (7) (as redesignated by
23 subparagraph (B)), by striking “establish or
24 improve” and inserting “establishing or improv-
25 ing”;

1 (E) in paragraph (8) (as redesignated by
2 subparagraph (B))—

3 (i) by striking “assist” and inserting
4 “assisting”; and

5 (ii) by striking “and” after the semi-
6 colon;

7 (F) in paragraph (9) (as redesignated by
8 subparagraph (B)), by striking the period and
9 inserting “; and”; and

10 (G) by adding at the end the following:

11 “(10) other activities proposed in the applica-
12 tion submitted under subsection (d) that—

13 “(A) contribute to carrying out the pur-
14 poses of this part; and

15 “(B) are approved by the Secretary as part
16 of the review and acceptance of such applica-
17 tion.”;

18 (2) in subsection (e)—

19 (A) in paragraph (1)—

20 (i) by inserting a colon after “the fol-
21 lowing”;

22 (ii) in subparagraph (Q), by striking
23 “and” at the end;

24 (iii) in subparagraph (R), by striking
25 the period and inserting a semicolon; and

1 (iv) by adding at the end the fol-
2 lowing:

3 “(S) Alabama State University qualified
4 graduate program;

5 “(T) Coppin State University qualified
6 graduate program; and

7 “(U) Prairie View A & M University quali-
8 fied graduate program.”;

9 (B) in paragraph (2), by inserting “in law
10 or” after “instruction”; and

11 (C) in paragraph (3)—

12 (i) by striking “1998” and inserting
13 “2006”; and

14 (ii) by striking “(Q) and (R)” and in-
15 serting “(S), (T), and (U)”;

16 (3) in subsection (f)—

17 (A) in paragraph (1), by striking “(P)”
18 and inserting “(R)”;

19 (B) in paragraph (3)—

20 (i) by striking subparagraphs (A) and
21 (B) and inserting the following:

22 “(A) The amount of non-Federal funds for
23 the fiscal year for which the determination is
24 made that the institution or program listed in
25 subsection (e)—

1 “(i) allocates from institutional re-
2 sources;

3 “(ii) secures from non-Federal
4 sources, including amounts appropriated
5 by the State and amounts from the private
6 sector; and

7 “(iii) will utilize to match Federal
8 funds awarded for the fiscal year for which
9 the determination is made under this sec-
10 tion to the institution or program.

11 “(B) The number of students enrolled in
12 the qualified graduate programs of the eligible
13 institution or program, for which the institution
14 or program received and allocated funding
15 under this section in the preceding year.”;

16 (ii) in subparagraph (C), by striking
17 “(or the equivalent) enrolled in the eligible
18 professional or graduate school” and all
19 that follows through the period and insert-
20 ing “enrolled in the qualified programs or
21 institutions listed in paragraph (1).”;

22 (iii) in subparagraph (D)—

23 (I) by striking “students” and in-
24 serting “Black American students or
25 minority students”; and

1 (II) by striking “institution” and
2 inserting “institution or program”;
3 and

4 (iv) by striking subparagraph (E) and
5 inserting the following:

6 “(E) The percentage that the total number
7 of Black American students and minority stu-
8 dents who receive their first professional, mas-
9 ter’s, or doctoral degrees from the institution or
10 program in the academic year preceding the
11 academic year for which the determination is
12 made, represents of the total number of Black
13 American students and minority students in the
14 United States who receive their first profes-
15 sional, master’s, or doctoral degrees in the pro-
16 fessions or disciplines related to the course of
17 study at such institution or program, respec-
18 tively, in the preceding academic year.”; and

19 (4) in subsection (g), by striking “1998” and
20 inserting “2006”.

21 **SEC. 7350. AUTHORIZATION OF APPROPRIATIONS.**

22 Subsection (a) of section 399 (20 U.S.C. 1068h) is
23 amended to read as follows:

24 “(a) AUTHORIZATIONS.—

1 “(1) PART A.—(A) There are authorized to be
2 appropriated to carry out part A (other than section
3 316) such sums as may be necessary for fiscal year
4 2006 and each of the 5 succeeding fiscal years.

5 “(B) There are authorized to be appropriated
6 to carry out section 316 such sums as may be nec-
7 essary for fiscal year 2006 and each of the 5 suc-
8 ceeding fiscal years.

9 “(C) There are authorized to be appropriated to
10 carry out section 317 such sums as may be nec-
11 essary for fiscal year 2006 and each of the 5 suc-
12 ceeding fiscal years.

13 “(D) There are authorized to be appropriated
14 to carry out section 318 such sums as may be nec-
15 essary for fiscal year 2006 and each of the 5 suc-
16 ceeding fiscal years.

17 “(2) PART B.—(A) There are authorized to be
18 appropriated to carry out part B (other than section
19 326) such sums as may be necessary for fiscal year
20 2006 and each of the 5 succeeding fiscal years.

21 “(B) There are authorized to be appropriated
22 to carry out section 326 such sums as may be nec-
23 essary for fiscal year 2006 and each of the 5 suc-
24 ceeding fiscal years.

1 “(3) PART C.—There are authorized to be ap-
2 propriated to carry out part C such sums as may be
3 necessary for fiscal year 2006 and each of the 5 suc-
4 ceeding fiscal years.

5 “(4) PART D.—(A) There are authorized to be
6 appropriated to carry out part D (other than section
7 345(7), but including section 347) such sums as
8 may be necessary for fiscal year 2006 and each of
9 the 5 succeeding fiscal years.

10 “(B) There are authorized to be appropriated
11 to carry out section 345(7) such sums as may be
12 necessary for fiscal year 2006 and each of the 5 suc-
13 ceeding fiscal years.

14 “(5) PART E.—There are authorized to be ap-
15 propriated to carry out part E such sums as may be
16 necessary for fiscal year 2006 and each of the 5 suc-
17 ceeding fiscal years.”.

18 **SEC. 7351. TECHNICAL CORRECTIONS.**

19 Title III (20 U.S.C. 1051 et seq.) is further amend-
20 ed—

21 (1) in section 342(5)(C) (20 U.S.C.
22 1066a(5)(C)), by striking “,” and inserting “,”;

23 (2) in section 343(e) (20 U.S.C. 1066b(e)), by
24 inserting “SALE OF QUALIFIED BONDS.—” before
25 “Notwithstanding”;

1 (3) in the matter preceding clause (i) of section
2 365(9)(A) (20 U.S.C. 1067k(9)(A)), by striking
3 “support” and inserting “supports”;

4 (4) in section 391(b)(7)(E) (20 U.S.C.
5 1068(b)(7)(E)), by striking “subparagraph (E)” and
6 inserting “subparagraph (D)”;

7 (5) in the matter preceding subparagraph (A)
8 of section 392(b)(2) (20 U.S.C. 1068a(b)(2)), by
9 striking “eligible institutions under part A institu-
10 tions” and inserting “eligible institutions under part
11 A”; and

12 (6) in the matter preceding paragraph (1) of
13 section 396 (20 U.S.C. 1068e), by striking “360”
14 and inserting “399”.

15 **CHAPTER 5—STUDENT ASSISTANCE**

16 **Subchapter A—Grants to Students in Attend-** 17 **ance at Institutions of Higher Education**

18 **SEC. 7361. FEDERAL PELL GRANTS.**

19 Section 401 (20 U.S.C. 1070a) is amended—

20 (1) in subsection (a)(1)—

21 (A) in the first sentence, by striking
22 “2004” and inserting “2012”; and

23 (B) in the second sentence, by striking “,”
24 and inserting “,”;

25 (2) in subsection (b)—

1 (A) by striking paragraph (2)(A) and in-
2 serting the following:

3 “(2)(A) the amount of the Federal Pell Grant for a
4 student eligible under this part shall be—

5 “(i) \$5,100 for academic year 2006–2007;

6 “(ii) \$5,400 for academic year 2007–2008;

7 “(iii) \$5,700 for academic year 2008–2009;

8 “(iv) \$6,000 for academic year 2009–2010; and

9 “(v) \$6,300 for academic year 2010–2011,

10 less an amount equal to the amount determined to be the
11 expected family contribution with respect to that student
12 for that year.”;

13 (B) by striking paragraph (3);

14 (C) by redesignating paragraphs (4)
15 through (8) as paragraphs (3) through (7), re-
16 spectively;

17 (D) in paragraph (4) (as redesignated by
18 subparagraph (C)), by striking “\$400, except”
19 and all that follows through the period and in-
20 serting “10 percent of the maximum basic
21 grant level specified in the appropriate Approp-
22 riation Act for such academic year, except that
23 a student who is eligible for a Federal Pell
24 Grant in an amount that is equal to or greater
25 than 5 percent of such level but less than 10

1 percent of such level shall be awarded a Federal
2 Pell grant in the amount of 10 percent of such
3 level.”; and

4 (E) by striking paragraph (5) (as redesignated by subparagraph (C)) and inserting the
5 following:
6

7 “(5) In the case of a student who is enrolled, on at
8 least a half-time basis and for a period of more than 1
9 academic year in a 2-year or 4-year program of instruction
10 for which an institution of higher education awards an as-
11 sociate or baccalaureate degree, the Secretary shall allow
12 such student to receive not more than 2 Federal Pell
13 Grants during a single award year to permit such student
14 to accelerate the student’s progress toward a degree by
15 attending additional sessions. In the case of a student re-
16 ceiving more than 1 Federal Pell Grant in a single award
17 year, the total amount of Federal Pell Grants awarded to
18 such student for the award year may exceed the maximum
19 basic grant level specified in the appropriate Appropria-
20 tion Act for such award year.”; and

21 (3) in subsection (c), by adding at the end the
22 following:

23 “(5) The period of time during which a student may
24 receive Federal Pell Grants shall not exceed 18 semesters,

1 or an equivalent period of time as determined by the Sec-
2 retary pursuant to regulations, which period shall—

3 “(A) be determined without regard to whether
4 the student is enrolled on a full-time basis during
5 any portion of the period of time; and

6 “(B) include any period of time for which the
7 student received a Federal Pell Grant prior to the
8 date of enactment of the Higher Education Amend-
9 ments of 2005.”.

10 **SEC. 7362. FEDERAL TRIO PROGRAMS.**

11 (a) PROGRAM AUTHORITY; AUTHORIZATION OF AP-
12 PROPRIATIONS.—Section 402A (20 U.S.C. 1070a–11) is
13 amended—

14 (1) in subsection (b)—

15 (A) in paragraph (2)—

16 (i) in the matter preceding subpara-
17 graph (A), by striking “4” and inserting
18 “5”;

19 (ii) by striking subparagraph (A); and

20 (iii) by redesignating subparagraphs
21 (B) and (C) as subparagraphs (A) and
22 (B), respectively; and

23 (B) by striking paragraph (3) and insert-
24 ing the following:

1 “(3) MINIMUM GRANTS.—Unless the institution
2 or agency requests a smaller amount, an individual
3 grant authorized under this chapter shall be award-
4 ed in an amount that is not less than \$200,000, ex-
5 cept that an individual grant authorized under sec-
6 tion 402G shall be awarded in an amount that is not
7 less than \$170,000.”;

8 (2) in subsection (c)—

9 (A) in paragraph (2), by striking “service
10 delivery” and inserting “high quality service de-
11 livery, as determined under subsection (f),”;

12 (B) in paragraph (3)(B), by striking “is
13 not required to” and inserting “shall not”; and

14 (C) in paragraph (5), by striking “cam-
15 puses” and inserting “different campuses”;

16 (3) in subsection (e), by striking “(g)(2)” each
17 place the term occurs and inserting “(h)(4)”;

18 (4) by redesignating subsections (f) and (g) as
19 subsections (g) and (h), respectively;

20 (5) by inserting after subsection (e) the fol-
21 lowing:

22 “(f) OUTCOME CRITERIA.—

23 “(1) IN GENERAL.—The Secretary, by regula-
24 tion, shall establish outcome criteria for measuring,
25 annually and for longer periods, the quality and ef-

1 fectiveness of programs authorized under this chap-
2 ter.

3 “(2) USE FOR PRIOR EXPERIENCE DETERMINA-
4 TION.—The outcome criteria under paragraph (1)
5 shall be used to evaluate the programs provided by
6 a recipient of a grant under this chapter, and the
7 Secretary shall determine an eligible entity’s prior
8 experience of high quality service delivery, as re-
9 quired in subsection (c)(2), based on the outcome
10 criteria.

11 “(3) CONSIDERATION OF RELEVANT DATA.—
12 The outcome criteria under this subsection shall
13 take into account data pertaining to secondary
14 school completion, postsecondary education enroll-
15 ment, and postsecondary education completion for
16 low-income students, first generation college stu-
17 dents, and individuals with disabilities, in the schools
18 and institutions of higher education served by the
19 program to be evaluated.

20 “(4) CONTENTS OF OUTCOME CRITERIA.—The
21 outcome criteria shall include the following:

22 “(A) For programs authorized under sec-
23 tion 402B, whether the eligible entity met or
24 exceeded the entity’s objectives established in

1 the entity's application for such program re-
2 garding—

3 “(i) the delivery of service to a total
4 number of students served by the program;

5 “(ii) the continued secondary school
6 enrollment of such students;

7 “(iii) the graduation of such students
8 from secondary school; and

9 “(iv) the enrollment of such students
10 in an institution of higher education.

11 “(B) For programs authorized under sec-
12 tion 402C, whether the eligible entity met or ex-
13 ceeded its objectives for such program regard-
14 ing—

15 “(i) the delivery of service to a total
16 number of students served by the program,
17 as agreed upon by the entity and the Sec-
18 retary for the period;

19 “(ii) such students' school perform-
20 ance, as measured by the grade point aver-
21 age, or its equivalent;

22 “(iii) such students' academic per-
23 formance, as measured by standardized
24 tests, including tests required by the stu-
25 dents' State;

1 “(iv) the retention in, and graduation
2 from, secondary school of such students;
3 and

4 “(v) the enrollment of such students
5 in an institution of higher education.

6 “(C) For programs authorized under sec-
7 tion 402D—

8 “(i) whether the eligible entity met or
9 exceeded the entity’s objectives regarding
10 the retention in postsecondary education of
11 the students served by the program;

12 “(ii)(I) in the case of an entity that is
13 an institution of higher education offering
14 a baccalaureate degree, the extent to which
15 the entity met or exceeded the entity’s ob-
16 jectives regarding such students’ comple-
17 tion of the degree programs in which such
18 students were enrolled; or

19 “(II) in the case of an entity that is
20 an institution of higher education that does
21 not offer a baccalaureate degree, the extent
22 to which the entity met or exceeded the en-
23 tity’s objectives regarding—

24 “(aa) the completion of a degree
25 or certificate by such students; and

1 “(bb) the transfer of such stu-
2 dents to institutions of higher edu-
3 cation that offer baccalaureate de-
4 grees;

5 “(iii) whether the entity met or ex-
6 ceeded the entity’s objectives regarding the
7 delivery of service to a total number of stu-
8 dents, as agreed upon by the entity and
9 the Secretary for the period; and

10 “(iv) whether the applicant met or ex-
11 ceeded the entity’s objectives regarding
12 such students remaining in good academic
13 standing.

14 “(D) For programs authorized under sec-
15 tion 402E, whether the entity met or exceeded
16 the entity’s objectives for such program regard-
17 ing—

18 “(i) the delivery of service to a total
19 number of students, as agreed upon by the
20 entity and the Secretary for the period;

21 “(ii) the provision of appropriate
22 scholarly and research activities for the
23 students served by the program;

1 “(iii) the acceptance and enrollment
2 of such students in graduate programs;
3 and

4 “(iv) the attainment of doctoral de-
5 grees by former program participants.

6 “(E) For programs authorized under sec-
7 tion 402F, whether the entity met or exceeded
8 the entity’s objectives for such program regard-
9 ing—

10 “(i) the enrollment of students with-
11 out a secondary school diploma or its rec-
12 ognized equivalent, who were served by the
13 program, in programs leading to such di-
14 ploma or equivalent;

15 “(ii) the enrollment of secondary
16 school graduates who were served by the
17 program in programs of postsecondary
18 education;

19 “(iii) the delivery of service to a total
20 number of students, as agreed upon by the
21 entity and the Secretary for the period;
22 and

23 “(iv) the provision of assistance to
24 students served by the program in com-

1 pleting financial aid applications and col-
2 lege admission applications.”;

3 (6) in subsection (g) (as redesignated by para-
4 graph (4))—

5 (A) in the first sentence, by striking
6 “\$700,000,000 for fiscal year 1999” and all
7 that follows through the period and inserting
8 “such sums as may be necessary for fiscal year
9 2006 and each of the 5 succeeding fiscal
10 years.”; and

11 (B) by striking the fourth sentence; and

12 (7) in subsection (h) (as redesignated by para-
13 graph (4))—

14 (A) by redesignating paragraphs (1)
15 through (4) as paragraphs (3) through (6), re-
16 spectively;

17 (B) by inserting before paragraph (3) (as
18 redesignated by subparagraph (A)) the fol-
19 lowing:

20 “(1) DIFFERENT CAMPUS.—The term ‘different
21 campus’ means a site of an institution of higher edu-
22 cation that—

23 “(A) is geographically apart from the main
24 campus of the institution;

25 “(B) is permanent in nature; and

1 “(C) offers courses in educational pro-
2 grams leading to a degree, certificate, or other
3 recognized educational credential.

4 “(2) DIFFERENT POPULATION.—The term ‘dif-
5 ferent population’ means a group of individuals, with
6 respect to whom an eligible entity desires to serve
7 through an application for a grant under this chap-
8 ter, that—

9 “(A) is separate and distinct from any
10 other population that the entity has applied for
11 a grant under this chapter to serve; or

12 “(B) while sharing some of the same needs
13 as another population that the eligible entity
14 has applied for a grant under this chapter to
15 serve, has distinct needs for specialized serv-
16 ices.”;

17 (C) in paragraph (5) (as redesignated by
18 subparagraph (A))—

19 (i) in subparagraph (A), by striking
20 “or” after the semicolon;

21 (ii) in subparagraph (B), by striking
22 the period at the end and inserting “; or”;
23 and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(C) was a member of a reserve component
2 of the Armed Forces called to active duty for a
3 period of more than 180 days.”; and

4 (D) in paragraph (6), by striking “sub-
5 paragraph (A) or (B) of paragraph (3)” and in-
6 serting “subparagraph (A), (B), or (C) of para-
7 graph (5)”.

8 (b) TALENT SEARCH.—Section 402B (20 U.S.C.
9 1070a–12) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by striking “to iden-
12 tify qualified youths with potential for edu-
13 cation at the postsecondary level and to encour-
14 age such youths” and inserting “to encourage
15 eligible youths”;

16 (B) in paragraph (2), by inserting “, and
17 facilitate the application for,” after “the avail-
18 ability of”; and

19 (C) in paragraph (3), by striking “, but
20 who have the ability to complete such programs,
21 to reenter” and inserting “to enter or reenter,
22 and complete”;

23 (2) by redesignating subsection (c) as sub-
24 section (d);

1 (3) by striking subsection (b) and inserting the
2 following:

3 “(b) REQUIRED SERVICES.—Any project assisted
4 under this section shall provide—

5 “(1) academic tutoring, or connections to high
6 quality academic tutoring services, to enable stu-
7 dents to complete secondary or postsecondary
8 courses, which may include instruction in reading,
9 writing, study skills, mathematics, science, and other
10 subjects;

11 “(2) advice and assistance in secondary course
12 selection and, if applicable, initial postsecondary
13 course selection;

14 “(3) assistance in preparing for college entrance
15 examinations and completing college admission ap-
16 plications;

17 “(4)(A) information on both the full range of
18 Federal student financial aid programs (including
19 Federal Pell Grant awards and loan forgiveness) and
20 resources for locating public and private scholar-
21 ships; and

22 “(B) assistance in completing financial aid ap-
23 plications, including the Free Application for Fed-
24 eral Student Aid described in section 483(a);

25 “(5) guidance on and assistance in—

1 “(A) secondary school reentry;

2 “(B) alternative education programs for
3 secondary school dropouts that lead to the re-
4 ceipt of a regular secondary school diploma;

5 “(C) entry into general educational devel-
6 opment (GED) programs; or

7 “(D) postsecondary education; and

8 “(6) education or counseling services designed
9 to improve the financial literacy and economic lit-
10 eracy of students or their parents, including finan-
11 cial planning for postsecondary education.

12 “(c) PERMISSIBLE SERVICES.—Any project assisted
13 under this section may provide services such as—

14 “(1) personal and career counseling or activi-
15 ties;

16 “(2) information and activities designed to ac-
17 quaint youths with the range of career options avail-
18 able to the youths;

19 “(3) exposure to the campuses of institutions of
20 higher education, as well as cultural events, aca-
21 demic programs, and other sites or activities not
22 usually available to disadvantaged youth;

23 “(4) workshops and counseling for families of
24 students served;

1 “(5) mentoring programs involving elementary
2 or secondary school teachers or counselors, faculty
3 members at institutions of higher education, stu-
4 dents, or any combination of such persons; and

5 “(6) programs and activities as described in
6 subsection (b) or paragraphs (1) through (5) of this
7 subsection that are specially designed for students
8 who are limited English proficient, students with
9 disabilities, students who are homeless children and
10 youths (as such term is defined in section 725 of the
11 McKinney-Vento Homeless Assistance Act (42
12 U.S.C. 11434a)), or students who are in foster care
13 or are aging out of the foster care system.”; and

14 (4) in the matter preceding paragraph (1) of
15 subsection (d) (as redesignated by paragraph (2)),
16 by striking “talent search projects under this chap-
17 ter” and inserting “projects under this section”.

18 (c) UPWARD BOUND.—Section 402C (20 U.S.C.
19 1070a–13) is amended—

20 (1) by striking subsection (b) and inserting the
21 following:

22 “(b) REQUIRED SERVICES.—Any project assisted
23 under this section shall provide—

24 “(1) academic tutoring to enable students to
25 complete secondary or postsecondary courses, which

1 may include instruction in reading, writing, study
2 skills, mathematics, science, and other subjects;

3 “(2) advice and assistance in secondary and
4 postsecondary course selection;

5 “(3) assistance in preparing for college entrance
6 examinations and completing college admission ap-
7 plications;

8 “(4)(A) information on both the full range of
9 Federal student financial aid programs (including
10 Federal Pell Grant awards and loan forgiveness) and
11 resources for locating public and private scholar-
12 ships; and

13 “(B) assistance in completing financial aid ap-
14 plications, including the Free Application for Fed-
15 eral Student Aid described in section 483(a);

16 “(5) guidance on and assistance in—

17 “(A) secondary school reentry;

18 “(B) alternative education programs for
19 secondary school dropouts that lead to the re-
20 ceipt of a regular secondary school diploma;

21 “(C) entry into general educational devel-
22 opment (GED) programs; or

23 “(D) postsecondary education; and

24 “(6) education or counseling services designed
25 to improve the financial literacy and economic lit-

1 eracy of students, including financial planning for
2 postsecondary education.”;

3 (2) in subsection (c)—

4 (A) in the subsection heading, by striking
5 “REQUIRED SERVICES” and inserting “ADDI-
6 TIONAL REQUIRED SERVICES FOR MULTIPLE-
7 YEAR GRANT RECIPIENTS”; and

8 (B) by striking “upward bound project as-
9 sisted under this chapter” and inserting
10 “project assisted under this section”;

11 (3) by redesignating subsections (d) and (e) as
12 subsections (e) and (f), respectively;

13 (4) by inserting after subsection (c) the fol-
14 lowing:

15 “(d) PERMISSIBLE SERVICES.—Any project assisted
16 under this section may provide such services as—

17 “(1) exposure to cultural events, academic pro-
18 grams, and other activities not usually available to
19 disadvantaged youth;

20 “(2) information, activities and instruction de-
21 signed to acquaint youths participating in the
22 project with the range of career options available to
23 the youths;

24 “(3) on-campus residential programs;

1 “(4) mentoring programs involving elementary
2 school or secondary school teachers or counselors,
3 faculty members at institutions of higher education,
4 students, or any combination of such persons;

5 “(5) work-study positions where youth partici-
6 pating in the project are exposed to careers requir-
7 ing a postsecondary degree;

8 “(6) special services to enable veterans to make
9 the transition to postsecondary education; and

10 “(7) programs and activities as described in
11 subsection (b), subsection (c), or paragraphs (1)
12 through (6) of this subsection that are specially de-
13 signed for students who are limited English pro-
14 ficient, students with disabilities, students who are
15 homeless children and youths (as such term is de-
16 fined in section 725 of the McKinney-Vento Home-
17 less Assistance Act (42 U.S.C. 11434a)), or students
18 who are in foster care or are aging out of the foster
19 care system.”;

20 (5) in the matter preceding paragraph (1) of
21 subsection (e) (as redesignated by paragraph (3)),
22 by striking “upward bound projects under this chap-
23 ter” and inserting “projects under this section”; and

24 (6) in subsection (f) (as redesignated by para-
25 graph (3))—

1 (A) by striking “during June, July, and
2 August” each place the term occurs and insert-
3 ing “during the summer school recess, for a pe-
4 riod not to exceed 3 months”; and

5 (B) by striking “(b)(10)” and inserting
6 “(d)(5)”.

7 (d) STUDENT SUPPORT SERVICES.—Section 402D
8 (20 U.S.C. 1070a–14) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), by striking “and”
11 after the semicolon;

12 (B) by striking paragraph (3) and insert-
13 ing the following:

14 “(3) to foster an institutional climate sup-
15 portive of the success of low-income and first gen-
16 eration college students, students with disabilities,
17 students who are limited English proficient, students
18 who are homeless children and youths (as such term
19 is defined in section 725 of the McKinney-Vento
20 Homeless Assistance Act (42 U.S.C. 11434a)), and
21 students who are in foster care or are aging out of
22 the foster care system.”; and

23 (C) by adding at the end the following:

24 “(4) to improve the financial literacy and eco-
25 nomic literacy of students, including—

1 “(A) basic personal income, household
2 money management, and financial planning
3 skills; and

4 “(B) basic economic decisionmaking
5 skills.”;

6 (2) by redesignating subsections (c) and (d) as
7 subsections (d) and (e);

8 (3) by striking subsection (b) and inserting the
9 following:

10 “(b) REQUIRED SERVICES.—A project assisted under
11 this section shall provide—

12 “(1) academic tutoring to enable students to
13 complete postsecondary courses, which may include
14 instruction in reading, writing, study skills, mathe-
15 matics, science, and other subjects;

16 “(2) advice and assistance in postsecondary
17 course selection;

18 “(3)(A) information on both the full range of
19 Federal student financial aid programs (including
20 Federal Pell Grant awards and loan forgiveness) and
21 resources for locating public and private scholar-
22 ships; and

23 “(B) assistance in completing financial aid ap-
24 plications, including the Free Application for Fed-
25 eral Student Aid described in section 483(a);

1 “(4) education or counseling services designed
2 to improve the financial literacy and economic lit-
3 eracy of students, including financial planning for
4 postsecondary education;

5 “(5) activities designed to assist students par-
6 ticipating in the project in securing college admis-
7 sion and financial assistance for enrollment in grad-
8 uate and professional programs; and

9 “(6) activities designed to assist students en-
10 rolled in 2-year institutions of higher education in
11 securing admission and financial assistance for en-
12 rollment in a 4-year program of postsecondary edu-
13 cation.

14 “(c) PERMISSIBLE SERVICES.—A project assisted
15 under this section may provide services such as—

16 “(1) consistent, individualized personal, career,
17 and academic counseling, provided by assigned coun-
18 selors;

19 “(2) information, activities, and instruction de-
20 signed to acquaint youths participating in the
21 project with the range of career options available to
22 the students;

23 “(3) exposure to cultural events and academic
24 programs not usually available to disadvantaged stu-
25 dents;

1 “(4) activities designed to acquaint students
2 participating in the project with the range of career
3 options available to the students;

4 “(5) mentoring programs involving faculty or
5 upper class students, or a combination thereof;

6 “(6) securing temporary housing during breaks
7 in the academic year for students who are homeless
8 children and youths (as such term is defined in sec-
9 tion 725 of the McKinney-Vento Homeless Assist-
10 ance Act (42 U.S.C. 11434a)) or were formerly
11 homeless children and youths and students who are
12 in foster care or are aging out of the foster care sys-
13 tem; and

14 “(7) programs and activities as described in
15 subsection (b) or paragraphs (1) through (5) of this
16 subsection that are specially designed for students
17 who are limited English proficient, students with
18 disabilities, students who are homeless children and
19 youths (as such term is defined in section 725 of the
20 McKinney-Vento Homeless Assistance Act (42
21 U.S.C. 11434a)) or were formerly homeless children
22 and youths, or students who are in foster care or are
23 aging out of the foster care system.”;

1 (4) in subsection (d)(1) (as redesignated by
2 paragraph (2)), by striking “subsection (b)” and in-
3 serting “subsection (c)”; and

4 (5) in the matter preceding paragraph (1) of
5 subsection (e) (as redesignated by paragraph (2)),
6 by striking “student support services projects under
7 this chapter” and inserting “projects under this sec-
8 tion”.

9 (e) POSTBACCALAUREATE ACHIEVEMENT PROGRAM
10 AUTHORITY.—Section 402E (20 U.S.C. 1070a–15) is
11 amended—

12 (1) in subsection (b)—

13 (A) in the subsection heading, by inserting
14 “REQUIRED” before “SERVICES”;

15 (B) in the matter preceding paragraph (1),
16 by striking “A postbaccalaureate achievement
17 project assisted under this section may provide
18 services such as—” and inserting “A project as-
19 sisted under this section shall provide—”;

20 (C) in paragraph (5), by inserting “and”
21 after the semicolon;

22 (D) in paragraph (6), by striking the semi-
23 colon and inserting a period; and

24 (E) by striking paragraphs (7) and (8);

1 (2) by redesignating subsections (e) through (f)
2 as subsections (d) through (g), respectively;

3 (3) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) PERMISSIBLE SERVICES.—A project assisted
6 under this section may provide services such as—

7 “(1) education or counseling services designed
8 to improve the financial literacy and economic lit-
9 eracy of students or their parents, including finan-
10 cial planning for postsecondary education;

11 “(2) mentoring programs involving faculty
12 members at institutions of higher education, stu-
13 dents, or any combination of such persons; and

14 “(3) exposure to cultural events and academic
15 programs not usually available to disadvantaged stu-
16 dents.”;

17 (4) in the matter preceding paragraph (1) of
18 subsection (d) (as redesignated by paragraph (2)),
19 by striking “postbaccalaureate achievement”;

20 (5) in the matter preceding paragraph (1) of
21 subsection (f) (as redesignated by paragraph (2)), by
22 striking “postbaccalaureate achievement project”
23 and inserting “project under this section”; and

24 (6) in subsection (g) (as redesignated by para-
25 graph (2))—

1 (A) by striking “402A(f)” and inserting
2 “402A(g)”; and

3 (B) by striking “1993 through 1997” and
4 inserting “2006 through 2010”.

5 (f) EDUCATIONAL OPPORTUNITY CENTERS.—Section
6 402F (20 U.S.C. 1070a–16) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1), by striking “and”
9 after the semicolon;

10 (B) in paragraph (2), by striking the pe-
11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(3) to improve the financial literacy and eco-
14 nomic literacy of students, including—

15 “(A) basic personal income, household
16 money management, and financial planning
17 skills; and

18 “(B) basic economic decisionmaking
19 skills.”; and

20 (2) in subsection (b)—

21 (A) by redesignating paragraphs (5)
22 through (10) as paragraphs (6) through (11),
23 respectively;

24 (B) by inserting after paragraph (4) the
25 following:

1 “(5) education or counseling services designed
2 to improve the financial literacy and economic lit-
3 eracy of students;”;

4 (C) by striking paragraph (7) (as redesign-
5 ated by subparagraph (A)) and inserting the
6 following:

7 “(7) individualized personal, career, and aca-
8 demic counseling;”;

9 (D) by striking paragraph (11) (as redesign-
10 ated by subparagraph (A)) and inserting the
11 following:

12 “(11) programs and activities as described in
13 paragraphs (1) through (10) that are specially de-
14 signed for students who are limited English pro-
15 ficient, students with disabilities, or students who
16 are homeless children and youths (as such term is
17 defined in section 725 of the McKinney-Vento
18 Homeless Assistance Act (42 U.S.C. 11434a)), or
19 programs and activities for students who are in fos-
20 ter care or are aging out of the foster care system.”.

21 (g) STAFF DEVELOPMENT ACTIVITIES.—Section
22 402G(b)(3) (20 U.S.C. 1070a–17(b)(3)) is amended by in-
23 serting “, including strategies for recruiting and serving
24 students who are homeless children and youths (as such
25 term is defined in section 725 of the McKinney-Vento

1 Homeless Assistance Act (42 U.S.C. 11434a)) and stu-
2 dents who are in foster care or are aging out of the foster
3 care system” before the period at the end.

4 (h) REPORTS, EVALUATIONS, AND GRANTS FOR
5 PROJECT IMPROVEMENT AND DISSEMINATION.—Section
6 402H (20 U.S.C. 1070a–18) is amended—

7 (1) by striking the section heading and insert-
8 ing “**REPORTS, EVALUATIONS, AND GRANTS**
9 **FOR PROJECT IMPROVEMENT AND DISSEMINA-**
10 **TION.**”;

11 (2) by redesignating subsections (a) through (c)
12 as subsections (b) through (d), respectively; and

13 (3) by inserting before subsection (b) (as redesi-
14 gnated by paragraph (2)) the following:

15 “(a) REPORT TO CONGRESS.—At least once every 2-
16 year period, the Secretary shall prepare and submit to
17 Congress a report on the outcomes achieved by the pro-
18 grams authorized under this chapter. Such report shall in-
19 clude a statement for the preceding fiscal year speci-
20 fying—

21 “(1) the number of grants awarded during each
22 fiscal year, and the number of individuals served by
23 the programs carried out under such grants;

1 “(2) the number of entities that received grants
2 during the fiscal year, including the number of enti-
3 ties that—

4 “(A) received a grant to carry out a pro-
5 gram under this chapter for the fiscal year; and

6 “(B) had not received funding for that
7 particular program during the previous grant
8 cycle;

9 “(3) a comparison of the number and percent-
10 age of grant awards made to entities described in
11 paragraph (2), with the number of such entities
12 funded through discretionary grant competitions
13 conducted by the Secretary under this chapter in the
14 3 grant cycles preceding the fiscal year;

15 “(4) information on the number of individuals
16 served in each program authorized under this chap-
17 ter; and

18 “(5) information on the outcomes achieved by
19 each program authorized under this chapter, includ-
20 ing the outcome criteria described in section 402A(f)
21 for each program.”.

1 **SEC. 7363. GAINING EARLY AWARENESS AND READINESS**
2 **FOR UNDERGRADUATE PROGRAMS.**

3 (a) EARLY INTERVENTION AND COLLEGE AWARE-
4 NESS PROGRAM AUTHORIZED.—Section 404A (20 U.S.C.
5 1070a–21) is amended—

6 (1) by striking subsection (a) and inserting the
7 following:

8 “(a) PROGRAM AUTHORIZED.—The Secretary is au-
9 thorized, in accordance with the requirements of this chap-
10 ter, to establish a program that encourages eligible entities
11 to provide support to eligible low-income students to assist
12 the students in obtaining a secondary school diploma (or
13 its recognized equivalent) and to prepare for and succeed
14 in postsecondary education, by providing—

15 “(1) financial assistance, academic support, ad-
16 ditional counseling, mentoring, outreach, and sup-
17 portive services to middle school and secondary
18 school students to reduce—

19 “(A) the risk of such students dropping
20 out of school; or

21 “(B) the need for remedial education for
22 such students at the postsecondary level; and

23 “(2) information to students and their parents
24 about the advantages of obtaining a postsecondary
25 education and the college financing options for the
26 students and their parents.”;

1 (2) by striking subsection (b)(2)(A) and insert-
2 ing the following:

3 “(A) give priority to eligible entities that
4 have a prior, demonstrated commitment to
5 early intervention leading to college access
6 through collaboration and replication of suc-
7 cessful strategies;” and

8 (3) by striking subsection (c)(2) and inserting
9 the following:

10 “(2) a partnership—

11 “(A) consisting of—

12 “(i) 1 or more local educational agen-
13 cies; and

14 “(ii) 1 or more degree granting insti-
15 tutions of higher education; and

16 “(B) which may include not less than 2
17 other community organizations or entities, such
18 as businesses, professional organizations, State
19 agencies, institutions or agencies sponsoring
20 programs authorized under subpart 4, or other
21 public or private agencies or organizations.”.

22 (b) REQUIREMENTS.—Section 404B (20 U.S.C.
23 1070a–22) is amended—

24 (1) by striking subsection (a) and inserting the
25 following:—

1 “(a) FUNDING RULES.—

2 “(1) DISTRIBUTION.—In awarding grants from
3 the amount appropriated under section 404G for a
4 fiscal year, the Secretary shall take into consider-
5 ation—

6 “(A) the geographic distribution of such
7 awards; and

8 “(B) the distribution of such awards be-
9 tween urban and rural applicants.

10 “(2) SPECIAL RULE.—The Secretary shall an-
11 nually reevaluate the distribution of funds described
12 in paragraph (1) based on number, quality, and
13 promise of the applications.”;

14 (2) by striking subsections (b), (e), and (f);

15 (3) by redesignating subsections (c), (d), and
16 (g) as subsections (b), (c), and (d), respectively; and

17 (4) by adding at the end the following:

18 “(e) SUPPLEMENT, NOT SUPPLANT.—Grant funds
19 awarded under this chapter shall be used to supplement,
20 and not supplant, other Federal, State, and local funds
21 that would otherwise be expended to carry out activities
22 assisted under this chapter.”.

23 (c) APPLICATION.—Section 404C (20 U.S.C. 1070a–
24 23) is amended—

1 (1) in the section heading, by striking “**ELIGI-**
2 **BLE ENTITY PLANS**” and inserting “**APPLICA-**
3 **TIONS**”;

4 (2) in subsection (a)—

5 (A) in the subsection heading, by striking
6 “PLAN” and inserting “APPLICATION”;

7 (B) in paragraph (1)—

8 (i) by striking “a plan” and inserting
9 “an application”; and

10 (ii) by striking the second sentence;

11 and

12 (C) by striking paragraph (2) and insert-
13 ing the following:

14 “(2) CONTENTS.—Each application submitted
15 pursuant to paragraph (1) shall be in such form,
16 contain or be accompanied by such information or
17 assurances, and be submitted at such time as the
18 Secretary may require. Each such application shall,
19 at a minimum—

20 “(A) describe the activities for which as-
21 sistance under this chapter is sought, including
22 how the eligible entity will carry out the re-
23 quired activities described in section 404D(a);

24 “(B) describe how the eligible agency will
25 meet the requirements of section 404E;

1 “(C) provide assurances that adequate ad-
2 ministrative and support staff will be respon-
3 sible for coordinating the activities described in
4 section 404D;

5 “(D) ensure that activities assisted under
6 this chapter will not displace an employee or
7 eliminate a position at a school assisted under
8 this chapter, including a partial displacement
9 such as a reduction in hours, wages or employ-
10 ment benefits;

11 “(E) describe, in the case of an eligible en-
12 tity described in section 404A(c)(2), how the el-
13 igible entity will define the cohorts of the stu-
14 dents served by the eligible entity pursuant to
15 section 404B(d), and how the eligible entity will
16 serve the cohort through grade 12, including—

17 “(i) how vacancies in the program
18 under this chapter will be filled; and

19 “(ii) how the eligible entity will serve
20 students attending different secondary
21 schools;

22 “(F) describe how the eligible entity will
23 coordinate programs with other existing Fed-
24 eral, State, or local programs to avoid duplica-

1 tion and maximize the number of students
2 served;

3 “(G) provide such additional assurances as
4 the Secretary determines necessary to ensure
5 compliance with the requirements of this chap-
6 ter; and

7 “(H) provide information about the activi-
8 ties that will be carried out by the eligible enti-
9 ty to support systemic changes from which fu-
10 ture cohorts of students will benefit.”;

11 (3) in the matter preceding subparagraph (A)
12 of subsection (b)(1)—

13 (A) by striking “a plan” and inserting “an
14 application”; and

15 (B) by striking “such plan” and inserting
16 “such application”; and

17 (4) in subsection (c)(1), by striking the semi-
18 colon at the end and inserting “including—

19 “(A) the amount contributed to a student
20 scholarship fund established under section
21 404E; and

22 “(B) the amount of the costs of admin-
23 istering the scholarship program under section
24 404E;”.

1 (d) ACTIVITIES.—Section 404D (20 U.S.C. 1070a–
2 24) is amended to read as follows:

3 **“SEC. 404D. ACTIVITIES.**

4 “(a) REQUIRED ACTIVITIES.—Each eligible entity re-
5 ceiving a grant under this chapter shall carry out the fol-
6 lowing:

7 “(1) Provide information regarding financial
8 aid for postsecondary education to participating stu-
9 dents in the cohort described in subsection
10 404B(d)(1)(A).

11 “(2) Encourage student enrollment in rigorous
12 and challenging curricula and coursework, in order
13 to reduce the need for remedial coursework at the
14 postsecondary level.

15 “(3) Support activities designed to improve the
16 number of participating students who—

17 “(A) obtain a secondary school diploma;
18 and

19 “(B) complete applications for and enroll
20 in a program of postsecondary education.

21 “(4) In the case of an eligible entity described
22 in section 404A(c)(1), provide for the scholarships
23 described in section 404E.

24 “(b) OPTIONAL ACTIVITIES FOR STATES AND PART-
25 NERSHIPS.—An eligible entity that receives a grant under

1 this chapter may use grant funds to carry out 1 or more
2 of the following activities:

3 “(1) Providing tutoring and supporting men-
4 tors, including adults or former participants of a
5 program under this chapter, for eligible students.

6 “(2) Conducting outreach activities to recruit
7 priority students described in subsection (d) to par-
8 ticipate in program activities.

9 “(3) Providing supportive services to eligible
10 students.

11 “(4) Supporting the development or implemen-
12 tation of rigorous academic curricula, which may in-
13 clude college preparatory, Advanced Placement, or
14 International Baccalaureate programs, and providing
15 participating students access to rigorous core
16 courses that reflect challenging State academic
17 standards.

18 “(5) Supporting dual or concurrent enrollment
19 programs between the secondary school and institu-
20 tion of higher education partners of an eligible entity
21 described in section 404A(c)(2), and other activities
22 that support participating students in—

23 “(A) meeting challenging academic stand-
24 ards;

1 “(B) successfully applying for postsec-
2 ondary education;

3 “(C) successfully applying for student fi-
4 nancial aid; and

5 “(D) developing graduation and career
6 plans.

7 “(6) Providing support for scholarships de-
8 scribed in section 404E.

9 “(7) Introducing eligible students to institutions
10 of higher education, through trips and school-based
11 sessions.

12 “(8) Providing an intensive extended school
13 day, school year, or summer program that offers—

14 “(A) additional academic classes; or

15 “(B) assistance with college admission ap-
16 plications.

17 “(9) Providing other activities designed to en-
18 sure secondary school completion and postsecondary
19 education enrollment of at-risk children, such as—

20 “(A) the identification of at-risk children;

21 “(B) after-school and summer tutoring;

22 “(C) assistance to at-risk children in ob-
23 taining summer jobs;

24 “(D) academic counseling;

25 “(E) volunteer and parent involvement;

1 “(F) encouraging former or current par-
2 ticipants of a program under this chapter to
3 serve as peer counselors;

4 “(G) skills assessments;

5 “(H) personal counseling;

6 “(I) family counseling and home visits;

7 “(J) staff development; and

8 “(K) programs and activities described in
9 this subsection that are specially designed for
10 students who are limited English proficient.

11 “(10) Enabling eligible students to enroll in Ad-
12 vanced Placement or International Baccalaureate
13 courses, or college entrance examination preparation
14 courses.

15 “(11) Providing services to eligible students in
16 the participating cohort described in section
17 404B(d)(1)(A), through the first year of attendance
18 at an institution of higher education.

19 “(c) ADDITIONAL OPTIONAL ACTIVITIES FOR
20 STATES.—In addition to the required activities described
21 in subsection (a) and the optional activities described in
22 subsection (b), an eligible entity described in section
23 404A(c)(1) receiving funds under this chapter may use
24 grant funds to carry out 1 or more of the following activi-
25 ties:

1 “(1) Providing technical assistance to—

2 “(A) middle schools or secondary schools
3 that are located within the State; or

4 “(B) partnerships described in section
5 404A(c)(2) that are located within the State.

6 “(2) Providing professional development oppor-
7 tunities to individuals working with eligible cohorts
8 of students described in section 404B(d)(1)(A).

9 “(3) Providing strategies and activities that
10 align efforts in the State to prepare eligible students
11 for attending and succeeding in postsecondary edu-
12 cation, which may include the development of grad-
13 uation and career plans.

14 “(4) Disseminating information on the use of
15 scientifically based research and best practices to
16 improve services for eligible students.

17 “(5)(A) Disseminating information on effective
18 coursework and support services that assist students
19 in obtaining the goals described in subparagraph
20 (B)(ii).

21 “(B) Identifying and disseminating information
22 on best practices with respect to—

23 “(i) increasing parental involvement; and

24 “(ii) preparing students, including students
25 with disabilities and students who are limited

1 English proficient, to succeed academically in,
2 and prepare financially for, postsecondary edu-
3 cation.

4 “(6) Working to align State academic standards
5 and curricula with the expectations of postsecondary
6 institutions and employers.

7 “(7) Developing alternatives to traditional sec-
8 ondary school that give students a head start on at-
9 taining a recognized postsecondary credential (in-
10 cluding an industry certificate, an apprenticeship, or
11 an associate’s or a bachelor’s degree), including
12 school designs that give students early exposure to
13 college-level courses and experiences and allow stu-
14 dents to earn transferable college credits or an asso-
15 ciate’s degree at the same time as a secondary
16 school diploma.

17 “(8) Creating community college programs for
18 drop-outs that are personalized drop-out recovery
19 programs that allow drop-outs to complete a regular
20 secondary school diploma and begin college-level
21 work.

22 “(d) PRIORITY STUDENTS.—For eligible entities not
23 using a cohort approach, the eligible entity shall treat as
24 priority students any student in middle or secondary
25 school who is eligible—

1 “(1) to be counted under section 1124(c) of the
2 Elementary and Secondary Education Act of 1965;

3 “(2) for free or reduced price meals under the
4 Richard B. Russell National School Lunch Act;

5 “(3) for assistance under a State program
6 funded under part A or E of title IV of the Social
7 Security Act (42 U.S.C. 601 et seq., 670 et seq.);
8 or

9 “(4) for assistance under subtitle B of title VII
10 of the McKinney-Vento Homeless Assistance Act (42
11 U.S.C. 11431 et seq.).

12 “(e) ALLOWABLE PROVIDERS.—In the case of eligible
13 entities described in section 404A(c)(1), the activities re-
14 quired by this section may be provided by service providers
15 such as community-based organizations, schools, institu-
16 tions of higher education, public and private agencies,
17 nonprofit and philanthropic organizations, businesses, in-
18 stitutions and agencies sponsoring programs authorized
19 under subpart 4, and other organizations the State deter-
20 mines appropriate.”.

21 (e) SCHOLARSHIP COMPONENT.—Section 404E (20
22 U.S.C. 1070a–25) is amended—

23 (1) by striking subsections (e) and (f);

24 (2) by redesignating subsections (b), (c), and

25 (d) as subsections (d), (f), and (g), respectively;

1 (3) by inserting after subsection (a) the fol-
2 lowing:

3 “(b) LIMITATION.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 each eligible entity described in section 404A(c)(1)
6 that receives a grant under this chapter shall use
7 not less than 25 percent and not more than 50 per-
8 cent of the grant funds for activities described in
9 section 404D(c), with the remainder of such funds
10 to be used for a scholarship program under this sec-
11 tion.

12 “(2) EXCEPTION.—Notwithstanding paragraph
13 (1), the Secretary may allow an eligible entity to use
14 more than 50 percent of grant funds received under
15 this chapter for such activities, if the eligible entity
16 demonstrates that the eligible entity has another
17 means of providing the students with the financial
18 assistance described in this section and describes
19 such means in the application submitted under sec-
20 tion 404C.

21 “(c) NOTIFICATION OF ELIGIBILITY.—Each eligible
22 entity providing scholarships under this section shall pro-
23 vide information on the eligibility requirements for the
24 scholarships to all participating students upon the stu-

1 dents' entry into the programs assisted under this chap-
2 ter.”;

3 (4) in subsection (d) (as redesignated by para-
4 graph (2)), by striking “the lesser of” and all that
5 follows through the period at the end of paragraph
6 (2) and inserting “the minimum Federal Pell Grant
7 award under section 401 for such award year.”;

8 (5) by inserting after subsection (d) (as redesign-
9 nated by paragraph (2) and amended by paragraph
10 (4)) the following:

11 “(e) PORTABILITY OF ASSISTANCE.—

12 “(1) IN GENERAL.—Each eligible entity de-
13 scribed in section 404A(c)(1) that receives a grant
14 under this chapter shall create or organize a trust
15 for each cohort described in section 404B(d)(1)(A)
16 for which the grant is sought in the application sub-
17 mitted by the entity, which trust shall be an amount
18 that is not less than the minimum scholarship
19 amount described in subsection (d), multiplied by
20 the number of students participating in the cohort.

21 “(2) REQUIREMENT FOR PORTABILITY.—Funds
22 contributed to the trust for a cohort shall be avail-
23 able to a student in the cohort when the student
24 has—

1 “(A) completed a secondary school di-
2 ploma, its recognized equivalent, or other recog-
3 nized alternative standard for individuals with
4 disabilities; and

5 “(B) enrolled in an institution of higher
6 education.

7 “(3) QUALIFIED EDUCATIONAL EXPENSES.—
8 Funds available to an eligible student from a trust
9 may be used for—

10 “(A) tuition, fees, books, supplies, and
11 equipment required for the enrollment or at-
12 tendance of the eligible student at an institution
13 of higher education; and

14 “(B) in the case of an eligible student with
15 special needs, expenses for special needs serv-
16 ices which are incurred in connection with such
17 enrollment or attendance.

18 “(4) RETURN OF FUNDS.—

19 “(A) REDISTRIBUTION.—

20 “(i) IN GENERAL.—Trust funds that
21 are not used by an eligible student within
22 6 years of the student’s scheduled comple-
23 tion of secondary school may be redistrib-
24 uted by the eligible entity to other eligible
25 students.

1 “(ii) RETURN OF EXCESS TO THE
2 SECRETARY.—If, after meeting the require-
3 ments of paragraph (1) and, if applicable,
4 redistributing excess funds in accordance
5 with clause (i), an eligible entity has funds
6 remaining, the eligible entity shall return
7 excess funds to the Secretary for distribu-
8 tion to other grantees under this chapter.

9 “(B) NONPARTICIPATING ENTITY.—Not-
10 withstanding subparagraph (A), in the case of
11 an eligible entity described in section
12 404A(c)(1)(A) that does not receive assistance
13 under this subpart for 6 fiscal years, the eligi-
14 ble entity shall return any trust funds not
15 awarded or obligated to eligible students to the
16 Secretary for distribution to other grantees
17 under this chapter.”; and

18 (6) in subsection (g) (as redesignated by para-
19 graph (2))—

20 (A) in paragraph (2), by striking “1993”
21 and inserting “2000”; and

22 (B) in paragraph (4), by striking “early
23 intervention component required under section
24 404D” and inserting “activities required under
25 section 404D(a)”.

1 (f) REPEAL OF 21ST CENTURY SCHOLAR CERTIFI-
2 CATES.—Chapter 2 of subpart 2 of part A of title IV (20
3 U.S.C. 1070a–21 et seq.) is further amended—

4 (1) by striking section 404F; and

5 (2) by redesignating sections 404G and 404H
6 as sections 404F and 404G, respectively.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—Section
8 404G (as redesignated by subsection (f)) (20 U.S.C.
9 1070a–28) is amended by striking “\$200,000,000 for fis-
10 cal year 1999” and all that follows through the period and
11 inserting “such sums as may be necessary for fiscal year
12 2006 and each of the 5 succeeding fiscal years.”.

13 (h) CONFORMING AMENDMENTS.—Chapter 2 of sub-
14 part 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.)
15 is further amended—

16 (1) in section 404A(b)(1), by striking “404H”
17 and inserting “404G”;

18 (2) in section 404B(a)(1), by striking “404H”
19 and inserting “404G”; and

20 (3) in section 404F(e) (as redesignated by sub-
21 section (f)(2)), by striking “404H” and inserting
22 “404G”.

1 **SEC. 7364. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLAR-**
2 **SHIPS.**

3 Chapter 3 of subpart 2 of part A of title IV (20
4 U.S.C. 1070a-31 et seq.) is repealed.

5 **SEC. 7365. FEDERAL SUPPLEMENTAL EDUCATIONAL OP-**
6 **PORTUNITY GRANTS.**

7 (a) **APPROPRIATIONS AUTHORIZED.**—Section
8 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by strik-
9 ing “\$675,000,000 for fiscal year 1999” and all that fol-
10 lows through the period and inserting “such sums as may
11 be necessary for fiscal year 2006 and each of the 5 suc-
12 ceeding fiscal years.”.

13 (b) **ALLOCATION OF FUNDS.**—

14 (1) **ALLOCATION OF FUNDS.**—Section 413D
15 (20 U.S.C. 1070b-3) is amended—

16 (A) by striking subsection (a)(4); and

17 (B) in subsection (c)(3)(D), by striking
18 “\$450” and inserting “\$600”.

19 (2) **TECHNICAL CORRECTION.**—Section
20 413D(a)(1) (20 U.S.C. 1070b-3(a)(1)) is amended
21 by striking “such institution” and all that follows
22 through the period and inserting “such institution
23 received under subsections (a) and (b) of this section
24 for fiscal year 1999 (as such subsections were in ef-
25 fect with respect to allocations for such fiscal
26 year).”.

1 **SEC. 7366. LEVERAGING EDUCATIONAL ASSISTANCE PART-**
2 **nership Program.**

3 (a) APPROPRIATIONS AUTHORIZED.—Section
4 415A(b)(1) (20 U.S.C. 1070c(b)(1)) is amended to read
5 as follows:

6 “(1) IN GENERAL.—There are authorized to be
7 appropriated to carry out this subpart such sums as
8 may be necessary for fiscal year 2006 and each of
9 the 5 succeeding fiscal years.”.

10 (b) APPLICATIONS.—Section 415C(b) (20 U.S.C.
11 1070c–2(b)) is amended—

12 (1) in the matter preceding subparagraph (A)
13 of paragraph (2), by striking “not in excess of
14 \$5,000 per academic year” and inserting “not to ex-
15 ceed the lesser of \$12,500 or the student’s cost of
16 attendance per academic year”; and

17 (2) by striking paragraph (10) and inserting
18 the following:

19 “(10) provides notification to eligible students
20 that such grants are—

21 “(A) Leveraging Educational Assistance
22 Partnership grants; and

23 “(B) funded by the Federal Government,
24 the State, and other contributing partners.”.

1 (c) GRANTS FOR ACCESS AND PERSISTENCE.—Sec-
2 tion 415E (20 U.S.C. 1070e–3a) is amended to read as
3 follows:

4 **“SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.**

5 “(a) PURPOSE.—It is the purpose of this section to
6 expand college access and increase college persistence by
7 making allotments to States to enable the States to—

8 “(1) expand and enhance partnerships with in-
9 stitutions of higher education, early information and
10 intervention, mentoring, or outreach programs, pri-
11 vate corporations, philanthropic organizations, and
12 other interested parties in order to—

13 “(A) carry out activities under this section;
14 and

15 “(B) provide coordination and cohesion
16 among Federal, State, and local governmental
17 and private efforts that provide financial assist-
18 ance to help low-income students attend an in-
19 stitution of higher education;

20 “(2) provide need-based grants for access and
21 persistence to eligible low-income students;

22 “(3) provide early notification to low-income
23 students of the students’ eligibility for financial aid;
24 and

1 “(4) encourage increased participation in early
2 information and intervention, mentoring, or outreach
3 programs.

4 “(b) ALLOTMENTS TO STATES.—

5 “(1) IN GENERAL.—

6 “(A) AUTHORIZATION.—From sums re-
7 served under section 415A(b)(2) for each fiscal
8 year, the Secretary shall make an allotment to
9 each State that submits an application for an
10 allotment in accordance with subsection (c) to
11 enable the State to pay the Federal share, as
12 described in paragraph (2), of the cost of car-
13 rying out the activities under subsection (d).

14 “(B) DETERMINATION OF ALLOTMENT.—

15 In making allotments under subparagraph (A),
16 the Secretary shall consider the following:

17 “(i) CONTINUATION OF AWARD.—If a
18 State continues to meet the specifications
19 established in such State’s application
20 under subsection (c), the Secretary shall
21 make an allotment to such State that is
22 not less than the allotment made to such
23 State for the previous fiscal year.

24 “(ii) PRIORITY.—The Secretary shall
25 give priority in making allotments to

1 States that meet the requirements de-
2 scribed in paragraph (2)(A)(ii).

3 “(2) FEDERAL SHARE.—

4 “(A) IN GENERAL.—The Federal share
5 under this section shall be determined in ac-
6 cordance with the following:

7 “(i) If a State applies for an allot-
8 ment under this section in partnership
9 with—

10 “(I) any number of degree grant-
11 ing institutions of higher education in
12 the State whose combined full-time
13 enrollment represents less than a ma-
14 jority of all students attending institu-
15 tions of higher education in the State;
16 and

17 “(II)(aa) philanthropic organiza-
18 tions that are located in, or that pro-
19 vide funding in, the State; or

20 “(bb) private corporations that
21 are located in, or that do business in,
22 the State,

23 then the Federal share of the cost of car-
24 rying out the activities under subsection
25 (d) shall be equal to 50 percent.

1 “(ii) If a State applies for an allot-
2 ment under this section in partnership
3 with—

4 “(I) any number of degree grant-
5 ing institutions of higher education in
6 the State whose combined full-time
7 enrollment represents a majority of all
8 students attending institutions of
9 higher education in the State; and

10 “(II)(aa) philanthropic organiza-
11 tions that are located in, or that pro-
12 vide funding in, the State; or

13 “(bb) private corporations that
14 are located in, or that do business in,
15 the State,

16 then the Federal share of the cost of car-
17 rying out the activities under subsection
18 (d) shall be equal to 57 percent.

19 “(B) NON-FEDERAL SHARE.—

20 “(i) IN GENERAL.—The non-Federal
21 share under this section may be provided
22 in cash or in kind, fully evaluated and in
23 accordance with this subparagraph.

24 “(ii) IN KIND CONTRIBUTION.—For
25 the purpose of calculating the non-Federal

1 share under this section, an in kind con-
2 tribution is a non-cash award that has
3 monetary value, such as provision of room
4 and board and transportation passes, and
5 that helps a student meet the cost of at-
6 tendance.

7 “(iii) EFFECT ON NEED ANALYSIS.—

8 For the purpose of calculating a student’s
9 need in accordance with part F of this
10 title, an in-kind contribution described in
11 clause (ii) shall not be considered an asset
12 or income.

13 “(c) APPLICATION FOR ALLOTMENT.—

14 “(1) IN GENERAL.—

15 “(A) SUBMISSION.—A State that desires
16 to receive an allotment under this section on be-
17 half of a partnership described in paragraph (3)
18 shall submit an application to the Secretary at
19 such time, in such manner, and containing such
20 information as the Secretary may require.

21 “(B) CONTENT.—An application submitted
22 under subparagraph (A) shall include the fol-
23 lowing:

24 “(i) A description of the State’s plan
25 for using the allotted funds.

1 “(ii) Assurances that the State will
2 provide the non-Federal share from State,
3 institutional, philanthropic, or private
4 funds, of not less than the required share
5 of the cost of carrying out the activities
6 under subsection (d), as determined under
7 subsection (b), in accordance with the fol-
8 lowing:

9 “(I) The State shall specify the
10 methods by which non-Federal share
11 funds will be paid and include provi-
12 sions designed to ensure that funds
13 provided under this section will be
14 used to supplement, and not supplant,
15 Federal and non-Federal funds avail-
16 able for carrying out the activities
17 under this title.

18 “(II) A State that uses non-Fed-
19 eral funds to create or expand existing
20 partnerships with nonprofit organiza-
21 tions or community-based organiza-
22 tions in which such organizations
23 match State funds for student schol-
24 arships, may apply such matching
25 funds from such organizations toward

1 fulfilling the State’s non-Federal
2 share obligation under this clause.

3 “(iii) Assurances that early informa-
4 tion and intervention, mentoring, or out-
5 reach programs exist within the State or
6 that there is a plan to make such pro-
7 grams widely available.

8 “(iv) A description of the organiza-
9 tional structure that the State has in place
10 to administer the activities under sub-
11 section (d), including a description of the
12 system the State will use to track the par-
13 ticipation of students who receive grants
14 under this section to degree completion.

15 “(v) Assurances that the State has a
16 method in place, such as acceptance of the
17 automatic zero expected family contribu-
18 tion determination described in section
19 479, to identify eligible low-income stu-
20 dents and award State grant aid to such
21 students.

22 “(vi) Assurances that the State will
23 provide notification to eligible low-income
24 students that grants under this section
25 are—

1 “(I) Leveraging Educational As-
2 sistance Partnership Grants; and

3 “(II) funded by the Federal Gov-
4 ernment, the State, and other contrib-
5 uting partners.

6 “(2) STATE AGENCY.—The State agency that
7 submits an application for a State under section
8 415C(a) shall be the same State agency that sub-
9 mits an application under paragraph (1) for such
10 State.

11 “(3) PARTNERSHIP.—In applying for an allot-
12 ment under this section, the State agency shall apply
13 for the allotment in partnership with—

14 “(A) not less than 1 public and 1 private
15 degree granting institution of higher education
16 that are located in the State, if applicable;

17 “(B) new or existing early information and
18 intervention, mentoring, or outreach programs
19 located in the State; and

20 “(C) not less than 1—

21 “(i) philanthropic organization located
22 in, or that provides funding in, the State;
23 or

24 “(ii) private corporation located in, or
25 that does business in, the State.

1 “(4) ROLES OF PARTNERS.—

2 “(A) STATE AGENCY.—A State agency
3 that is in a partnership receiving an allotment
4 under this section—

5 “(i) shall—

6 “(I) serve as the primary admin-
7 istrative unit for the partnership;

8 “(II) provide or coordinate non-
9 Federal share funds, and coordinate
10 activities among partners;

11 “(III) encourage each institution
12 of higher education in the State to
13 participate in the partnership;

14 “(IV) make determinations and
15 early notifications of assistance as de-
16 scribed under subsection (d)(2); and

17 “(V) annually report to the Sec-
18 retary on the partnership’s progress
19 in meeting the purpose of this section;
20 and

21 “(ii) may provide early information
22 and intervention, mentoring, or outreach
23 programs.

24 “(B) DEGREE GRANTING INSTITUTIONS OF
25 HIGHER EDUCATION.—A degree granting insti-

1 tution of higher education that is in a partner-
2 ship receiving an allotment under this section—

3 “(i) shall—

4 “(I) recruit and admit partici-
5 pating qualified students and provide
6 such additional institutional grant aid
7 to participating students as agreed to
8 with the State agency;

9 “(II) provide support services to
10 students who receive grants for access
11 and persistence under this section and
12 are enrolled at such institution; and

13 “(III) assist the State in the
14 identification of eligible students and
15 the dissemination of early notifica-
16 tions of assistance as agreed to with
17 the State agency; and

18 “(ii) may provide funding for early in-
19 formation and intervention, mentoring, or
20 outreach programs or provide such services
21 directly.

22 “(C) PROGRAMS.—An early information
23 and intervention, mentoring, or outreach pro-
24 gram that is in a partnership receiving an allot-
25 ment 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.—

1 “(I) IN GENERAL.—In the case
2 where a State receiving an allotment
3 under this section is in a partnership
4 described in subsection (b)(2)(A)(i),
5 the amount of a grant for access and
6 persistence awarded by such State
7 shall be not less than the amount that
8 is equal to the average undergraduate
9 tuition and mandatory fees at 4-year
10 public institutions of higher education
11 in the State where the student resides
12 (less any other Federal or State spon-
13 sored grant amount, work study
14 amount, and scholarship amount re-
15 ceived by the student), and such
16 amount shall be used toward the cost
17 of attendance at an institution of
18 higher education located in the State.

19 “(II) COST OF ATTENDANCE.—A
20 State that has a program, apart from
21 the partnership under this section, of
22 providing eligible low-income students
23 with grants that are equal to the aver-
24 age undergraduate tuition and man-
25 datory fees at 4-year public institu-

1 tions of higher education in the State,
2 may increase the amount of grants for
3 access and persistence awarded by
4 such State up to an amount that is
5 equal to the average cost of attend-
6 ance at 4-year public institutions of
7 higher education in the State (less
8 any other Federal or State sponsored
9 grant amount, work study amount,
10 and scholarship amount received by
11 the student).

12 “(ii) PARTNERSHIPS WITH INSTITU-
13 TIONS SERVING THE MAJORITY OF STU-
14 DENTS IN THE STATE.—In the case where
15 a State receiving an allotment under this
16 section is in a partnership described in
17 subsection (b)(2)(A)(ii), the amount of a
18 grant for access and persistence awarded
19 by such State shall be not more than an
20 amount that is equal to the average cost of
21 attendance at 4-year public institutions of
22 higher education in the State where the
23 student resides (less any other Federal or
24 State sponsored grant amount, college
25 work study amount, and scholarship

1 amount received by the student), and such
2 amount shall be used by the student to at-
3 tend an institution of higher education lo-
4 cated in the State.

5 “(C) SPECIAL RULES.—

6 “(i) PARTNERSHIP INSTITUTIONS.—A
7 State receiving an allotment under this
8 section may restrict the use of grants for
9 access and persistence under this section
10 by awarding the grants only to students
11 attending institutions of higher education
12 that are participating in the partnership.

13 “(ii) OUT-OF-STATE INSTITUTIONS.—
14 If a State provides grants through another
15 program under this subpart to students at-
16 tending institutions of higher education lo-
17 cated in another State, such agreement
18 may also apply to grants awarded under
19 this section.

20 “(2) EARLY NOTIFICATION.—

21 “(A) IN GENERAL.—Each State receiving
22 an allotment under this section shall annually
23 notify low-income students, such as students
24 who are eligible to receive a free lunch under
25 the school lunch program established under the

1 Richard B. Russell National School Lunch Act,
2 in grade 7 through grade 12 in the State, of
3 the students' potential eligibility for student fi-
4 nancial assistance, including a grant for access
5 and persistence, to attend an institution of
6 higher education.

7 “(B) CONTENT OF NOTICE.—The notifica-
8 tion under subparagraph (A)—

9 “(i) shall include—

10 “(I) information about early in-
11 formation and intervention, men-
12 toring, or outreach programs available
13 to the student;

14 “(II) information that a stu-
15 dent's candidacy for a grant for ac-
16 cess and persistence is enhanced
17 through participation in an early in-
18 formation and intervention, men-
19 toring, or outreach program;

20 “(III) an explanation that stu-
21 dent and family eligibility and partici-
22 pation in other Federal means-tested
23 programs may indicate eligibility for a
24 grant for access and persistence and
25 other student aid programs;

1 “(IV) a nonbinding estimation of
2 the total amount of financial aid a
3 low-income student with a similar in-
4 come level may expect to receive, in-
5 cluding an estimation of the amount
6 of a grant for access and persistence
7 and an estimation of the amount of
8 grants, loans, and all other available
9 types of aid from the major Federal
10 and State financial aid programs;

11 “(V) an explanation that in order
12 to be eligible for a grant for access
13 and persistence, at a minimum, a stu-
14 dent shall—

15 “(aa) meet the requirement
16 under paragraph (3);

17 “(bb) graduate from sec-
18 ondary school; and

19 “(cc) enroll at an institution
20 of higher education that is a
21 partner in the partnership or
22 qualifies under subsection
23 (d)(1)(C)(ii);

24 “(VI) information on any addi-
25 tional requirements (such as a student

1 pledge detailing student responsibil-
2 ities) that the State may impose for
3 receipt of a grant for access and per-
4 sistence under this section; and

5 “(VII) instructions on how to
6 apply for a grant for access and per-
7 sistence and an explanation that a
8 student is required to file a Free Ap-
9 plication for Federal Student Aid au-
10 thORIZED under section 483(a) to be el-
11 ible for such grant and assistance
12 from other Federal and State finan-
13 cial aid programs; and

14 “(ii) may include a disclaimer that
15 grant awards for access and persistence
16 are contingent upon—

17 “(I) a determination of the stu-
18 dent’s financial eligibility at the time
19 of the student’s enrollment at an in-
20 stitution of higher education that is a
21 partner in the partnership or qualifies
22 under subsection (d)(1)(C)(ii);

23 “(II) annual Federal and State
24 appropriations; and

1 “(III) other aid received by the
2 student at the time of the student’s
3 enrollment at such institution of high-
4 er education.

5 “(3) ELIGIBILITY.—In determining which stu-
6 dents are eligible to receive grants for access and
7 persistence, the State shall ensure that each such
8 student meets not less than 1 of the following:

9 “(A) Meets not less than 2 of the following
10 criteria, with priority given to students meeting
11 all of the following criteria:

12 “(i) Has an expected family contribu-
13 tion equal to zero (as described in section
14 479) or a comparable alternative based
15 upon the State’s approved criteria in sec-
16 tion 415C(b)(4).

17 “(ii) Has qualified for a free lunch, or
18 at the State’s discretion a reduced price
19 lunch, under the school lunch program es-
20 tablished under the Richard B. Russell Na-
21 tional School Lunch Act.

22 “(iii) Qualifies for the State’s max-
23 imum undergraduate award, as authorized
24 under section 415C(b).

1 “(iv) Is participating in, or has par-
2 ticipated in, a Federal, State, institutional,
3 or community early information and inter-
4 vention, mentoring, or outreach program,
5 as recognized by the State agency admin-
6 istering activities under this section.

7 “(B) Is receiving, or has received, a grant
8 for access and persistence under this section, in
9 accordance with paragraph (5).

10 “(4) GRANT AWARD.—Once a student, includ-
11 ing those students who have received early notifica-
12 tion under paragraph (2) from the State, applies for
13 admission to an institution that is a partner in the
14 partnership, files a Free Application for Federal
15 Student Aid and any related existing State form,
16 and is determined eligible by the State under para-
17 graph (3), the State shall—

18 “(A) issue the student a preliminary award
19 certificate for a grant for access and persistence
20 with tentative award amounts; and

21 “(B) inform the student that payment of
22 the grant for access and persistence award
23 amounts is subject to certification of enrollment
24 and award eligibility by the institution of higher
25 education.

1 “(5) DURATION OF AWARD.—An eligible stu-
2 dent that receives a grant for access and persistence
3 under this section shall receive such grant award for
4 each year of such student’s undergraduate education
5 in which the student remains eligible for assistance
6 under this title, including pursuant to section
7 484(c), and remains financially eligible as deter-
8 mined by the State, except that the State may im-
9 pose reasonable time limits to degree completion.

10 “(e) USE OF FUNDS FOR ADMINISTRATIVE COSTS
11 PROHIBITED.—A State that receives an allotment under
12 this section shall not use any of the allotted funds to pay
13 administrative costs associated with any of the authorized
14 activities described in subsection (d).

15 “(f) STATUTORY AND REGULATORY RELIEF FOR IN-
16 STITUTIONS OF HIGHER EDUCATION.—The Secretary
17 may grant, upon the request of an institution of higher
18 education that is in a partnership described in subsection
19 (b)(2)(A)(ii) and that receives an allotment under this sec-
20 tion, a waiver for such institution from statutory or regu-
21 latory requirements that inhibit the ability of the institu-
22 tion to successfully and efficiently participate in the activi-
23 ties 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

1 Higher Education Act of 1965 as such section existed on
2 the day before the date of enactment of such Act to States
3 that choose to apply for grants under such predecessor
4 section.

5 “(k) REPORTS.—Not later than 3 years after the
6 date of enactment of the Higher Education Amendments
7 of 2005 and annually thereafter, the Secretary shall sub-
8 mit a report describing the activities and the impact of
9 the partnerships under this section to the authorizing
10 committees.”

11 **SEC. 7367. SPECIAL PROGRAMS FOR STUDENTS WHOSE**
12 **FAMILIES ARE ENGAGED IN MIGRANT AND**
13 **SEASONAL FARMWORK.**

14 Section 418A (20 U.S.C. 1070d–2) is amended—

15 (1) in subsection (a), by adding “(including
16 providing outreach and technical assistance)” after
17 “maintain and expand”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)(B)(i), by striking
20 “parents” and inserting “immediate family”;

21 (B) in paragraph (3)(B), by inserting “(in-
22 cluding preparation for college entrance exami-
23 nations)” after “college program”;

24 (C) in paragraph (5), by striking “weekly”;

1 (D) in paragraph (7), by striking “and”
2 after the semicolon;

3 (E) in paragraph (8), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (F) by adding at the end the following:

6 “(9) other activities to improve persistence and
7 retention in postsecondary education.”;

8 (3) in subsection (c)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (B)—

11 (I) in the matter preceding clause
12 (i), by inserting “to improve place-
13 ment, persistence, and retention in
14 postsecondary education” after “serv-
15 ices”; and

16 (II) in clause (i), by striking
17 “and career” and inserting “career,
18 and economic education or personal fi-
19 nance”;

20 (ii) in subparagraph (E), by striking
21 “and” after the semicolon;

22 (iii) by redesignating subparagraph
23 (F) as subparagraph (G); and

24 (iv) by inserting after subparagraph
25 (E) the following:

- 1 “(F) internships; and”; and
- 2 (B) in paragraph (2)—
- 3 (i) in subparagraph (A), by striking
- 4 “and” after the semicolon;
- 5 (ii) in subparagraph (B), by striking
- 6 the period at the end and inserting “, and
- 7 coordinating such services, assistance, and
- 8 aid with other non-program services, as-
- 9 sistance, and aid, including services, assist-
- 10 ance, and aid provided by community-
- 11 based organizations, which may include
- 12 mentoring and guidance; and”;
- 13 (iii) by adding at the end the fol-
- 14 lowing:
- 15 “(C) for students attending 2-year institu-
- 16 tions of higher education, encouraging the stu-
- 17 dents to transfer to 4-year institutions of higher
- 18 education, where appropriate, and monitoring
- 19 the rate of transfer of such students.”;
- 20 (4) in subsection (e), by striking “section
- 21 402A(c)(1)” and inserting “section 402A(c)(2)”;
- 22 (5) in subsection (f)—
- 23 (A) in paragraph (1), by striking
- 24 “\$150,000” and inserting “\$180,000”; and

1 (B) in paragraph (2), by striking
2 “\$150,000” and inserting “\$180,000”; and
3 (6) in subsection (h)—

4 (A) in paragraph (1), by striking
5 “\$15,000,000 for fiscal year 1999” and all that
6 follows through the period and inserting “such
7 sums as may be necessary for fiscal year 2006
8 and each of the 5 succeeding fiscal years.”; and

9 (B) in paragraph (2), by striking
10 “\$5,000,000 for fiscal year 1999” and all that
11 follows through the period and inserting “such
12 sums as may be necessary for fiscal year 2006
13 and each of the 5 succeeding fiscal years.”.

14 **SEC. 7368. ROBERT C. BYRD HONORS SCHOLARSHIP PRO-**
15 **GRAM.**

16 (a) **ELIGIBILITY OF SCHOLARS.**—Section 419F(a)
17 (20 U.S.C. 1070d–36(a)) is amended by inserting “(or a
18 home school, whether treated as a home school or a private
19 school under State law)” after “private or public sec-
20 ondary school”.

21 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section
22 419K (20 U.S.C. 1070d–41) is amended by striking
23 “\$45,000,000 for fiscal year 1999” and all that follows
24 through the period and inserting “such sums as may be

1 necessary for fiscal year 2006 and each of the 5 suc-
2 ceeding fiscal years.”.

3 **SEC. 7369. CHILD CARE ACCESS MEANS PARENTS IN**
4 **SCHOOL.**

5 (a) MINIMUM GRANT.—Section 419N(b)(2)(B) (20
6 U.S.C. 1070e(b)(2)(B)) is amended—

7 (1) by striking “A grant” and inserting the fol-
8 lowing:

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), a grant”; and

11 (2) by adding at the end the following:

12 “(ii) INCREASE TRIGGER.—For any
13 fiscal year for which the amount appro-
14 priated under the authority of subsection
15 (g) is equal to or greater than
16 \$20,000,000, a grant under this section
17 shall be awarded in an amount that is not
18 less than \$30,000.”.

19 (b) DEFINITION OF LOW-INCOME STUDENT.—Para-
20 graph (7) of section 419N(b) (20 U.S.C. 1070e(b)) is
21 amended to read as follows:

22 “(7) DEFINITION OF LOW-INCOME STUDENT.—
23 For the purpose of this section, the term ‘low-income
24 student’ means a student who—

1 “(A) is eligible to receive a Federal Pell
2 Grant for the fiscal year for which the deter-
3 mination is made; or

4 “(B) would otherwise be eligible to receive
5 a Federal Pell Grant for the fiscal year for
6 which the determination is made, except that
7 the student fails to meet the requirements of—

8 “(i) section 401(c)(1) because the stu-
9 dent is enrolled in a graduate or first pro-
10 fessional course of study; or

11 “(ii) section 484(a)(5) because the
12 student is in the United States for a tem-
13 porary purpose.”.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
15 419N(g) (20 U.S.C. 1070e(g)) is amended by striking
16 “\$45,000,000 for fiscal year 1999” and all that follows
17 through the period and inserting “such sums as may be
18 necessary for fiscal year 2006 and each of the 5 suc-
19 ceeding fiscal years.”.

20 **SEC. 7370. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

21 Subpart 8 of part A of title IV (20 U.S.C. 1070f et
22 seq.) is repealed.

1 “(ii) in the case of a student who is
2 studying outside the United States in a
3 program of study abroad that is approved
4 for credit by the home institution at which
5 such student is enrolled, and only after
6 verification of the student’s enrollment by
7 the lender or guaranty agency, are, at the
8 request of the student, disbursed directly
9 to the student by the means described in
10 clause (i), unless such student requests
11 that the check be endorsed, or the funds
12 transfer be authorized, pursuant to an au-
13 thorized power-of-attorney; or

14 “(iii) in the case of a student who is
15 studying outside the United States in a
16 program of study at an eligible foreign in-
17 stitution, are, at the request of the foreign
18 institution, disbursed directly to the stu-
19 dent, only after verification of the stu-
20 dent’s enrollment by the lender or guar-
21 anty agency by the means described in
22 clause (i);” and

23 (B) in subparagraph (Y)(i)(III), by insert-
24 ing “, except that, if requested by an institution
25 of higher education, the lender shall confirm

1 such status through use of the National Stu-
2 dent Loan Data System” before the semicolon;
3 and
4 (2) in subsection (c)(2)(H)(i), by striking
5 “preclaims” and inserting “default aversion”.

6 **SEC. 7383. FEDERAL CONSOLIDATION LOANS.**

7 Section 428C(b)(1) (20 U.S.C. 1078–3(b)(1)) is
8 amended—

9 (1) in subparagraph (E), by striking “and”
10 after the semicolon;

11 (2) by redesignating subparagraph (F) as sub-
12 paragraph (G); and

13 (3) by inserting after subparagraph (E) the fol-
14 lowing:

15 “(F) that the lender will disclose, in a
16 clear and conspicuous manner, to borrowers
17 who consolidate loans made under part E of
18 this title—

19 “(i) that once the borrower adds the
20 borrower’s Federal Perkins Loan to a Fed-
21 eral Consolidation Loan, the borrower will
22 lose all interest-free periods that would
23 have been available, such as those periods
24 when no interest accrues on the Federal
25 Perkins Loan while the borrower is en-

1 rolled in school at least half-time, during
2 the grace period, and during periods when
3 the borrower’s student loan repayments
4 are deferred;

5 “(ii) that the borrower will no longer
6 be eligible for loan forgiveness of Federal
7 Perkins Loans under any provision of sec-
8 tion 465; and

9 “(iii) the occupations described in sec-
10 tion 465(a)(2), individually and in detail,
11 for which the borrower will lose eligibility
12 for Federal Perkins Loan forgiveness;
13 and”.

14 **SEC. 7384. DEFAULT REDUCTION PROGRAM.**

15 Section 428F (20 U.S.C. 1078–6) is amended by
16 adding at the end the following:

17 “(c) FINANCIAL AND ECONOMIC LITERACY.—Where
18 appropriate as determined by the institution of higher edu-
19 cation in which a borrower is enrolled, each program de-
20 scribed in subsection (b) shall include making available fi-
21 nancial and economic education materials for the bor-
22 rower, including making the materials available before,
23 during, or after rehabilitation of a loan.”.

1 **SEC. 7385. REQUIREMENTS FOR DISBURSEMENT OF STU-**
2 **DENT LOANS.**

3 Section 428G(e) (20 U.S.C. 1078–7(e)) is amended
4 by striking “, made to a student to cover the cost of at-
5 tendance at an eligible institution outside the United
6 States”.

7 **SEC. 7386. REPORTS TO CREDIT BUREAUS AND INSTITU-**
8 **TIONS OF HIGHER EDUCATION.**

9 Section 430A(a) (20 U.S.C. 1080a(a)) is amended—

10 (1) in the first sentence, by striking “with cred-
11 it bureau organizations” and inserting “with each
12 consumer reporting agency that compiles and main-
13 tains files on consumers on a nationwide basis (as
14 defined in section 603(p) of the Fair Credit Report-
15 ing Act (15 U.S.C. 1681a(p))”;

16 (2) by redesignating paragraphs (1), (2), and
17 (3) as paragraphs (2), (4), and (5), respectively;

18 (3) by inserting before paragraph (2) (as redesi-
19 gnated by paragraph (2)), the following:

20 “(1) the type of loan made, insured, or guaran-
21 teed under this title;”;

22 (4) by inserting after paragraph (2) (as redesi-
23 gnated by paragraph (2)), the following:

24 “(3) information concerning the repayment sta-
25 tus of the loan, which information shall be included
26 in the file of the borrower, except that nothing in

1 this subsection shall be construed to affect any oth-
2 erwise applicable provision of the Fair Credit Re-
3 porting Act (15 U.S.C. 1681 et seq.)”;

4 (5) in paragraph (4) (as redesignated by para-
5 graph (2)), by striking “and” after the semicolon;

6 (6) in paragraph (5) (as redesignated by para-
7 graph (2)), by striking the period and inserting “;
8 and”; and

9 (7) by adding at the end the following:

10 “(6) any other information required to be re-
11 ported by Federal law.”.

12 **SEC. 7387. COMMON FORMS AND FORMATS.**

13 Section 432(m)(1)(D)(i) (20 U.S.C.
14 1082(m)(1)(D)(i)) is amended by adding at the end the
15 following: “Unless otherwise notified by the Secretary,
16 each institution of higher education that participates in
17 the program under this part or part D may use a master
18 promissory note for loans under this part and part D.”.

19 **SEC. 7388. STUDENT LOAN INFORMATION BY ELIGIBLE**
20 **BORROWERS.**

21 Section 433 (20 U.S.C. 1083) is amended by adding
22 at the end the following:

23 “(f) BORROWER INFORMATION AND PRIVACY.—Each
24 entity participating in a program under this part that is
25 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;

1 “(C) examples of the impact the interest
2 rate reductions will have on a borrower’s time
3 for repayment and amount of repayment;

4 “(D) upon the request of the borrower, the
5 effect the reductions in interest rates will have
6 with respect to the borrower’s payoff amount
7 and time for repayment; and

8 “(E) information on borrower recertifi-
9 cation requirements.”.

10 **SEC. 7389. CONSUMER EDUCATION INFORMATION.**

11 Part B of title IV (20 U.S.C. 1071 et seq.) is amend-
12 ed by inserting after section 433 (20 U.S.C. 1083) the
13 following:

14 **“SEC. 433A. CONSUMER EDUCATION INFORMATION.**

15 “Each guaranty agency participating in a program
16 under this part working with the institutions of higher
17 education served by such guaranty agency (or in the case
18 of an institution of higher education that provides loans
19 exclusively through part D, the institution working with
20 a guaranty agency or with the Secretary) shall develop and
21 make available a quality educational program and mate-
22 rials to provide training for students in budgeting and fi-
23 nancial management, including debt management and
24 other aspects of financial literacy, such as the cost of using
25 very high interest loans to pay for postsecondary edu-

1 cation, particularly as budgeting and financial manage-
2 ment relates to student loan programs authorized by this
3 title. Nothing in this section shall be construed to prohibit
4 a guaranty agency from using an existing program or ex-
5 isting materials to meet the requirement of this section.
6 The activities described in this section shall be considered
7 default reduction activities for the purposes of section
8 422.”.

9 **SEC. 7390. DEFINITION OF ELIGIBLE LENDER.**

10 Section 435(d)(2) (20 U.S.C. 1085(d)(2)) is amended
11 by striking subparagraph (F) and inserting the following:

12 “(F) shall use the proceeds from special al-
13 lowance payments, interest payments from bor-
14 rowers, proceeds from the sale of a loan made,
15 insured, or guaranteed under this part, and all
16 other proceeds related to such a loan that are
17 furnished to the eligible institution or any enti-
18 ty affiliated (directly or indirectly) with the eli-
19 gible institution, for need based grant pro-
20 grams, except that such payments and proceeds
21 may be used for reasonable reimbursement for
22 direct administrative expenses;”.

1 **SEC. 7390A. REPAYMENT BY THE SECRETARY OF LOANS OF**
 2 **BANKRUPT, DECEASED, OR DISABLED BOR-**
 3 **ROWERS; TREATMENT OF BORROWERS AT-**
 4 **TENDING SCHOOLS THAT FAIL TO PROVIDE A**
 5 **REFUND, ATTENDING CLOSED SCHOOLS, OR**
 6 **FALSELY CERTIFIED AS ELIGIBLE TO BOR-**
 7 **ROW.**

8 Section 437 (20 U.S.C. 1087) is amended—

9 (1) in the section heading, by striking
 10 “**CLOSED SCHOOLS OR FALSELY CERTIFIED AS**
 11 **ELIGIBLE TO BORROW**” and inserting “**SCHOOLS**
 12 **THAT FAIL TO PROVIDE A REFUND, ATTEND-**
 13 **ING CLOSED SCHOOLS, OR FALSELY CERTIFIED**
 14 **AS ELIGIBLE TO BORROW**”; and

15 (2) in the first sentence of subsection (c)(1), by
 16 inserting “or was falsely certified as a result of a
 17 crime of identity theft” after “falsely certified by the
 18 eligible institution”.

19 **Subchapter C—Federal Work-Study**
 20 **Programs**

21 **SEC. 7391. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 441(b) (42 U.S.C. 2751(b)) is amended by
 23 striking “\$1,000,000 for fiscal year 1999” and all that
 24 follows through the period and inserting “such sums as
 25 may be necessary for fiscal year 2006 and each of the 5
 26 succeeding fiscal years.”.

1 **SEC. 7392. ALLOWANCE FOR BOOKS AND SUPPLIES.**

2 Section 442(c)(4)(D) (42 U.S.C. 2752(c)(4)(D)) is
3 amended by striking “\$450” and inserting “\$600”.

4 **SEC. 7393. GRANTS FOR FEDERAL WORK-STUDY PRO-**
5 **GRAMS.**

6 Section 443(b)(2) (42 U.S.C. 2753(b)(2)) is amend-
7 ed—

8 (1) by striking subparagraph (A);

9 (2) by redesignating subparagraphs (B) and
10 (C) as subparagraphs (A) and (B), respectively; and

11 (3) in subparagraph (A) (as redesignated by
12 paragraph (2)), by striking “this subparagraph if”
13 and all that follows through “institution;” and in-
14 serting “this subparagraph if—

15 “(i) the Secretary determines that en-
16 forcing this subparagraph would cause
17 hardship for students at the institution; or

18 “(ii) the institution certifies to the
19 Secretary that 15 percent or more of its
20 total full-time enrollment participates in
21 community service activities described in
22 section 441(c) or tutoring and literacy ac-
23 tivities described in subsection (d) of this
24 section;”.

1 **SEC. 7394. JOB LOCATION AND DEVELOPMENT PROGRAMS.**

2 Section 446(a)(1) (42 U.S.C. 2756(a)(1)) is amended
3 by striking “\$50,000” and inserting “\$75,000”.

4 **SEC. 7395. WORK COLLEGES.**

5 Section 448 (42 U.S.C. 2756b) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by striking “under
8 subsection (f)” and inserting “for this section
9 under section 441(b)”; and

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-
12 graph (A), by striking “pursuant to sub-
13 section (f)” and inserting “for this section
14 under section 441(b)”; and

15 (ii) by redesignating subparagraphs
16 (C) through (F) as subparagraphs (D)
17 through (G), respectively; and

18 (iii) by inserting after subparagraph
19 (B) the following:

20 “(C) support existing and new model stu-
21 dent volunteer community service projects asso-
22 ciated with local institutions of higher edu-
23 cation, such as operating drop-in resource cen-
24 ters that are staffed by students and that link
25 people in need with the resources and opportu-
26 nities necessary to become self-sufficient;”;

1 (2) in subsection (c), by striking “by subsection
2 (f) to use funds under subsection (b)(1)” and insert-
3 ing “for this section under section 441(b) or to use
4 funds under subsection (b)(1),”; and
5 (4) by striking subsection (f).

6 **Subchapter D—William D. Ford Federal**
7 **Direct Loan Program**

8 **SEC. 7401. FUNDS FOR ADMINISTRATIVE EXPENSES.**

9 Section 458 (20 U.S.C. 1087h) is amended—

10 (1) in subsection (a)(1), in the matter following
11 subparagraph (B), by striking “\$617,000,000” and
12 all that follows through the period and inserting
13 “\$904,000,000 in fiscal year 2006, \$943,000,000 in
14 fiscal year 2007, \$983,000,000 in fiscal year 2008,
15 \$1,023,000,000 in fiscal year 2009, \$1,064,000,000
16 in fiscal year 2010, and \$1,106,000,000 in fiscal
17 year 2011.”; and

18 (2) in subsection (c)(1), by striking subpara-
19 graphs (A) through (E) and inserting the following:

20 “(A) for fiscal year 2006, shall not exceed
21 \$271,000,000;

22 “(B) for fiscal year 2007, shall not exceed
23 \$293,000,000;

24 “(C) for fiscal year 2008, shall not exceed
25 \$315,000,000;

1 “(D) for fiscal year 2009, shall not exceed
2 \$336,000,000;

3 “(E) for fiscal year 2010, shall not exceed
4 \$356,000,000; and

5 “(F) for fiscal year 2011, shall not exceed
6 \$378,000,000.”.

7 **Subchapter E—Federal Perkins Loans**

8 **SEC. 7411. PROGRAM AUTHORITY.**

9 Section 461(b) (20 U.S.C. 1087aa(b)) is amended—

10 (1) in paragraph (1), by striking
11 “\$250,000,000 for fiscal year 1999” and all that
12 follows through the period and inserting “such sums
13 as may be necessary for fiscal year 2006 and each
14 of the 5 succeeding fiscal years.”; and

15 (2) in paragraph (2),—

16 (A) by striking “fiscal year 2003” and in-
17 serting “fiscal year 2012”; and

18 (B) by striking “October 1, 2003” and in-
19 serting “October 1, 2012”.

20 **SEC. 7412. TERMS OF LOANS.**

21 Section 464 (20 U.S.C. 1087dd) is amended—

22 (1) in subsection (b)(1), by striking “for an ad-
23 ditional loan under this part” and inserting “for ad-
24 ditional aid under this title”; and

25 (2) in subsection (e), by striking “written”.

1 **SEC. 7413. CANCELLATION OF LOANS FOR CERTAIN PUBLIC**
2 **SERVICE.**

3 Section 465(a) (20 U.S.C. 1087ee(a)) is amended—

4 (1) in paragraph (2)—

5 (A) in subparagraph (B), by striking
6 “Head Start Act which” and inserting “Head
7 Start Act, or in a prekindergarten or child care
8 program that is licensed or regulated by the
9 State, that”;

10 (B) in subparagraph (H), by striking “or”
11 after the semicolon;

12 (C) in subparagraph (I), by striking the
13 period and inserting a semicolon; and

14 (D) by inserting before the matter fol-
15 lowing subparagraph (I) (as amended by sub-
16 paragraph (C)) the following:

17 “(J) as a full-time faculty member at a Tribal
18 College or University, as that term is defined in sec-
19 tion 316;

20 “(K) as a librarian, if the librarian has a mas-
21 ter’s degree in library science and is employed in—

22 “(i) an elementary school or secondary
23 school that is eligible for assistance under title
24 I of the Elementary and Secondary Education
25 Act of 1965; or

1 “(ii) a public library that serves a geo-
 2 graphic area that contains 1 or more schools el-
 3 igible for assistance under title I of the Elemen-
 4 tary and Secondary Education Act of 1965; or
 5 “(L) as a full-time speech language therapist, if
 6 the therapist has a master’s degree and is working
 7 exclusively with schools that are eligible for assist-
 8 ance under title I of the Elementary and Secondary
 9 Education Act of 1965.”; and

10 (2) in paragraph (3)(A)(i), by striking “or (I)”
 11 and inserting “(I), (J), (K), or (L)”.

12 **SEC. 7414. FEDERAL CAPITAL CONTRIBUTION RECOVERY.**

13 Section 466 (20 U.S.C. 1087ff) is amended—

14 (1) in subsection (a)—

15 (A) by striking “2003” each place it ap-
 16 pears and inserting “2011”; and

17 (B) by striking “2004” and inserting
 18 “2012”; and

19 (2) in subsection (c), by striking “2004” and
 20 inserting “2012”.

21 **Subchapter F—Need Analysis**

22 **SEC. 7421. COST OF ATTENDANCE.**

23 Section 472 (20 U.S.C. 1087ll) is amended—

24 (1) by striking paragraph (4) and inserting the
 25 following:

1 “(4) for less than half-time students (as deter-
2 mined by the institution), tuition and fees and an al-
3 lowance for only—

4 “(A) books, supplies, and transportation
5 (as determined by the institution);

6 “(B) dependent care expenses (determined
7 in accordance with paragraph (8)); and

8 “(C) room and board costs (determined in
9 accordance with paragraph (3)), except that a
10 student may receive an allowance for such costs
11 under this subparagraph for not more than 3
12 semesters or the equivalent, of which not more
13 than 2 semesters or the equivalent may be con-
14 secutive;”;

15 (2) in paragraph (11), by striking “and” after
16 the semicolon;

17 (3) in paragraph (12), by striking the period
18 and inserting “; and”; and

19 (4) by adding at the end the following:

20 “(13) at the option of the institution, for a stu-
21 dent in a program requiring professional licensure or
22 certification, the one time cost of obtaining the first
23 professional credentials (as determined by the insti-
24 tution).”.

1 **SEC. 7422. DISCRETION OF STUDENT FINANCIAL AID AD-**
2 **MINISTRATORS.**

3 The third sentence of section 479A(a) (20 U.S.C.
4 1087tt(a)) is amended—

5 (1) by inserting “or an independent student”
6 after “family member”; and

7 (2) by inserting “a change in housing status
8 that results in homelessness,” after “under section
9 487,”.

10 **SEC. 7423. DEFINITIONS.**

11 (a) DEFINITIONS.—Section 480 (20 U.S.C. 1087vv)
12 is amended—

13 (1) in subsection (f)—

14 (A) in paragraph (1), by inserting “quali-
15 fied education benefits (except as provided in
16 paragraph (3)),” after “tax shelters,”; and

17 (B) by adding at the end the following:

18 “(3) A qualified education benefit shall not be consid-
19 ered an asset of a student for purposes of section 475.

20 “(4) In determining the value of assets in a deter-
21 mination of need under this title (other than for subpart
22 4 of part A), the value of a qualified education benefit
23 shall be—

24 “(A) the refund value of any tuition credits or
25 certificates purchased under a qualified education
26 benefit; and

1 “(B) in the case of a program in which con-
2 tributions are made to an account that is established
3 for the purpose of meeting the qualified higher edu-
4 cation expenses of the designated beneficiary of the
5 account, the current balance of such account.

6 “(5) In this subsection:

7 “(A) QUALIFIED EDUCATION BENEFIT.—The
8 term ‘qualified education benefit’ means—

9 “(i) a qualified tuition program (as defined
10 in section 529(b)(1)(A) of the Internal Revenue
11 Code of 1986) or other prepaid tuition plan of-
12 fered by a State; and

13 “(ii) a Coverdell education savings account
14 (as defined in section 530(b)(1) of the Internal
15 Revenue Code of 1986).

16 “(B) QUALIFIED HIGHER EDUCATION EX-
17 PENSES.—The term ‘qualified higher education ex-
18 penses’ has the meaning given the term in section
19 529(e) of the Internal Revenue Code of 1986.”; and

20 (2) in subsection (j)—

21 (A) in the subsection heading, by striking

22 “; TUITION PREPAYMENT PLANS”;

23 (B) by striking paragraph (2);

24 (C) by redesignating paragraph (3) as
25 paragraph (2); and

1 (D) by inserting after paragraph (2) (as
2 redesignated by subparagraph (C)) the fol-
3 lowing paragraph:

4 “(3) Notwithstanding paragraph (1) and section 472,
5 assistance not received under this title may be excluded
6 from both estimated financial assistance and cost of at-
7 tendance, if that assistance is designated by the State pro-
8 viding that assistance to offset a specific component of the
9 cost of attendance. If that assistance is excluded from esti-
10 mated financial assistance or cost of attendance, that as-
11 sistance shall be excluded from both calculations.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to determinations of
14 need under part F of title IV for academic years beginning
15 on or after July 1, 2006.

16 **Subchapter G—General Provisions Relating**
17 **to Student Assistance**

18 **SEC. 7431. DEFINITIONS.**

19 Section 481 (20 U.S.C. 1088) is amended—

20 (1) in the second sentence of subsection (a)(2),
21 by inserting “and that measures program length in
22 credit hours or clock hours” after “baccalaureate de-
23 gree”; and

24 (2) in subsection (b), by adding at the end the
25 following:

1 “(3) For purposes of this title, the term ‘eligible pro-
2 gram’ includes an instructional program that utilizes di-
3 rect assessment of student learning or recognizes the di-
4 rect assessment of student learning by others, if such as-
5 sessment is consistent with the accreditation of the institu-
6 tion or program utilizing the results of the assessment,
7 in lieu of credit hours or clock hours as the measure of
8 student learning. In the case of a program being deter-
9 mined eligible for the first time under this paragraph, such
10 determination shall be made by the Secretary before such
11 program is considered to be an eligible program.”.

12 **SEC. 7432. COMPLIANCE CALENDAR.**

13 Section 482 (20 U.S.C. 1089) is amended by adding
14 at the end the following:

15 “(a) COMPLIANCE CALENDAR.—Prior to the begin-
16 ning of each award year, the Secretary shall provide to
17 institutions of higher education a list of all the reports
18 and disclosures required under this Act. The list shall in-
19 clude—

20 “(1) the date each report or disclosure is re-
21 quired to be completed and to be submitted, made
22 available, or disseminated;

23 “(2) the required recipients of each report or
24 disclosure;

1 “(3) any required method for transmittal or
2 dissemination of each report or disclosure;

3 “(4) a description of the content of each report
4 or disclosure sufficient to allow the institution to
5 identify the appropriate individuals to be assigned
6 the responsibility for such report or disclosure;

7 “(5) references to the statutory authority, ap-
8 plicable regulations, and current guidance issued by
9 the Secretary regarding each report or disclosure;
10 and

11 “(6) any other information which is pertinent to
12 the content or distribution of the report or dislo-
13 sure.”.

14 **SEC. 7433. FORMS AND REGULATIONS.**

15 Section 483 (20 U.S.C. 1090) is amended—

16 (1) by striking subsections (a) and (b), and in-
17 serting the following:

18 “(a) COMMON FINANCIAL AID FORM DEVELOPMENT
19 AND PROCESSING.—

20 “(1) IN GENERAL.—The Secretary, in coopera-
21 tion with representatives of agencies and organiza-
22 tions involved in student financial assistance, shall
23 produce, distribute, and process free of charge com-
24 mon financial reporting forms as described in this
25 subsection to be used to determine the need and eli-

1 gibility of a student for financial assistance under
2 parts A through E of this title (other than under
3 subpart 4 of part A). The forms shall be made avail-
4 able to applicants in both paper and electronic for-
5 mats and shall be referred to (except as otherwise
6 provided in this subsection) as the ‘Free Application
7 for Federal Student Aid’, or ‘FAFSA’.

8 “(2) PAPER FORMAT.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (C), the Secretary shall produce, dis-
11 tribute, and process common forms in paper
12 format to meet the requirements of paragraph
13 (1). The Secretary shall develop a common
14 paper form for applicants who do not meet the
15 requirements of or do not wish to use the proc-
16 ess described in subparagraph (B).

17 “(B) EZ FAFSA.—

18 “(i) IN GENERAL.—The Secretary
19 shall develop and use a simplified paper
20 application form, to be known as the ‘EZ
21 FAFSA’, to be used for applicants meeting
22 the requirements under section 479(c).

23 “(ii) REDUCED DATA REQUIRE-
24 MENTS.—The EZ FAFSA shall permit an
25 applicant to submit for purposes of deter-

1 mining financial need and eligibility, only
2 the data elements required to make a de-
3 termination of student eligibility and
4 whether the applicant meets the require-
5 ments of section 479(c).

6 “(iii) STATE DATA.—The Secretary
7 shall include on the EZ FAFSA such data
8 items as may be necessary to award State
9 financial assistance, as provided under
10 paragraph (5), except the Secretary shall
11 not include a State’s data if that State
12 does not permit its applicants for State as-
13 sistance to use the EZ FAFSA.

14 “(iv) FREE AVAILABILITY AND PROC-
15 ESSING.—The provisions of paragraph (6)
16 shall apply to the EZ FAFSA, and the
17 data collected by means of the EZ FAFSA
18 shall be available to institutions of higher
19 education, guaranty agencies, and States
20 in accordance with paragraph (9).

21 “(v) TESTING.—The Secretary shall
22 conduct appropriate field testing on the
23 EZ FAFSA.

1 “(C) PHASING OUT THE FULL PAPER
2 FORM FOR STUDENTS WHO DO NOT MEET THE
3 REQUIREMENTS OF THE EZ FAFSA.—

4 “(i) IN GENERAL.—The Secretary
5 shall make all efforts to encourage all ap-
6 plicants to utilize the electronic forms de-
7 scribed in paragraph (3).

8 “(ii) PHASEOUT OF FULL PAPER
9 FAFSA.—Not later than 5 years after the
10 date of enactment of the Higher Education
11 Amendments of 2005, to the extent prac-
12 ticable, the Secretary shall phase out the
13 printing of the long paper form created
14 under subparagraph (A) and used by appli-
15 cants who do not meet the requirements of
16 the EZ FAFSA described in subparagraph
17 (B).

18 “(iii) AVAILABILITY OF FULL PAPER
19 FAFSA.—

20 “(I) IN GENERAL.—Both prior to
21 and after the phaseout described in
22 clause (ii), the Secretary shall main-
23 tain on the Internet printable versions
24 of the paper forms described in sub-
25 paragraphs (A) and (B).

1 “(II) ACCESSIBILITY.—The
2 printable versions described in sub-
3 clause (I) shall be made easily acces-
4 sible and downloadable to students on
5 the same Web site used to provide
6 students with the common electronic
7 forms described in paragraph (3).

8 “(III) SUBMISSION OF FORMS.—
9 The Secretary shall conduct a study
10 to determine the feasibility of using
11 downloaded forms to ensure sufficient
12 quality to meet the processing require-
13 ments of this section. Following the
14 completion of the study, the Secretary
15 shall enable, to the extent practicable,
16 students to submit a form described
17 in this clause that is downloaded from
18 the Internet and printed, in order to
19 meet the filing requirements of this
20 section and to receive financial assist-
21 ance under this title.

22 “(iv) USE OF SAVINGS.—

23 “(I) IN GENERAL.—The Sec-
24 retary shall utilize any realized sav-
25 ings accrued by phasing out the full

1 paper FAFSA and moving more appli-
2 cants to the common electronic forms,
3 to improve access to the electronic
4 forms for applicants meeting the re-
5 quirements of section 479(c).

6 “(II) REPORT.—The Secretary
7 shall report annually to the author-
8 izing committees on—

9 “(aa) the steps taken to im-
10 prove access to the common elec-
11 tronic forms for applicants meet-
12 ing the requirements of section
13 479(c); and

14 “(bb) the phaseout of the
15 long common paper form de-
16 scribed in subparagraph (A).

17 “(3) ELECTRONIC FORMAT.—

18 “(A) IN GENERAL.—The Secretary shall
19 produce, distribute, and process common forms
20 in electronic format and make such forms avail-
21 able through a broadly accessible website to
22 meet the requirements of paragraph (1). The
23 Secretary shall develop common electronic
24 forms for applicants who do not meet the re-
25 quirements of subparagraph (B). The Secretary

1 shall include on the common electronic forms
2 space for information that needs to be sub-
3 mitted from the applicant to be eligible for
4 State financial assistance, as provided under
5 paragraph (5), except the Secretary shall not
6 require applicants to complete data required by
7 any State other than the applicant's State of
8 residence. The Secretary shall use all available
9 technology to ensure that a student using a
10 common electronic form answers only the min-
11 imum number of questions necessary.

12 “(B) SIMPLIFIED ELECTRONIC APPLICA-
13 TIONS.—

14 “(i) IN GENERAL.—The Secretary
15 shall develop and use a simplified elec-
16 tronic application form to be used by appli-
17 cants meeting the requirements of section
18 479(c) and an additional, separate sim-
19 plified electronic application form to be
20 used by applicants meeting the require-
21 ments under section 479(b).

22 “(ii) REDUCED DATA REQUIRE-
23 MENTS.—The simplified electronic applica-
24 tion forms shall permit an applicant to
25 submit for purposes of determining finan-

1 cial need and eligibility, only the data ele-
2 ments required to make a determination of
3 student eligibility and whether the appli-
4 cant meets the requirements of subsection
5 (b) or (c) of section 479.

6 “(iii) STATE DATA.—The Secretary
7 shall include on the simplified electronic
8 application forms such data items as may
9 be necessary to award State financial as-
10 sistance, as provided under paragraph (5),
11 except the Secretary shall not require ap-
12 plicants to complete data required by any
13 State other than the applicant’s State of
14 residence and shall not include a State’s
15 data if such State does not permit its ap-
16 plicants for State assistance to use the
17 simplified electronic application form de-
18 scribed in this subparagraph.

19 “(iv) FREE AVAILABILITY AND PROC-
20 ESSING.—The provisions of paragraph (6)
21 shall apply to the simplified electronic ap-
22 plication forms, and the data collected by
23 means of the simplified electronic applica-
24 tion forms shall be available to institutions
25 of higher education, guaranty agencies,

1 and States in accordance with paragraph
2 (9).

3 “(v) TESTING.—The Secretary shall
4 conduct appropriate field testing on the
5 forms developed under this subparagraph.

6 “(C) USE OF FORMS.—Nothing in this
7 subsection shall be construed to prohibit the use
8 of the forms developed by the Secretary pursu-
9 ant to this paragraph by an eligible institution,
10 eligible lender, a guaranty agency, a State
11 grant agency, a private computer software pro-
12 vider, a consortium of such entities, or such
13 other entity as the Secretary may designate.
14 Data collected by the forms shall be used only
15 for the application, award, and administration
16 of aid awarded under this title, State aid, or aid
17 awarded by eligible institutions or such entities
18 as the Secretary may designate. No data col-
19 lected by such electronic version of the forms
20 shall be used for making final aid awards under
21 this title until such data have been processed by
22 the Secretary or a contractor or designee of the
23 Secretary, except as may be permitted under
24 this title.

1 “(D) PRIVACY.—The Secretary shall en-
2 sure that data collection under this paragraph
3 complies with section 552a of title 5, United
4 States Code, and that any entity using the elec-
5 tronic version of the forms developed by the
6 Secretary pursuant to this paragraph shall
7 maintain reasonable and appropriate adminis-
8 trative, technical, and physical safeguards to
9 ensure the integrity and confidentiality of the
10 information, and to protect against security
11 threats, or unauthorized uses or disclosures of
12 the information provided on the electronic
13 version of the forms.

14 “(E) SIGNATURE.—Notwithstanding any
15 other provision of this Act, the Secretary may
16 permit an electronic form under this paragraph
17 to be submitted without a signature, if a signa-
18 ture is subsequently submitted by the applicant
19 or if the applicant uses a personal identification
20 number provided by the Secretary under sub-
21 paragraph (F).

22 “(F) PERSONAL IDENTIFICATION NUM-
23 BERS AUTHORIZED.—The Secretary is author-
24 ized to assign to applicants personal identifica-
25 tion numbers—

1 “(i) to enable the applicants to use
2 such numbers as a signature for purposes
3 of completing a form under this paragraph;
4 and

5 “(ii) for any purpose determined by
6 the Secretary to enable the Secretary to
7 carry out this title.

8 “(4) STREAMLINED REAPPLICATION PROC-
9 ESS.—

10 “(A) IN GENERAL.—The Secretary shall
11 develop streamlined reapplication forms and
12 processes, including both paper and electronic
13 reapplication processes, consistent with the re-
14 quirements of this subsection, for an applicant
15 who applies for financial assistance under this
16 title in the next succeeding academic year sub-
17 sequent to an academic year in which such ap-
18 plicant applied for financial assistance under
19 this title.

20 “(B) MECHANISMS FOR REAPPLICATION.—
21 The Secretary shall develop appropriate mecha-
22 nisms to support reapplication.

23 “(C) IDENTIFICATION OF UPDATED
24 DATA.—The Secretary shall determine, in co-
25 operation with States, institutions of higher

1 education, and agencies and organizations in-
2 volved in student financial assistance, the data
3 elements that can be updated from the previous
4 academic year's application.

5 “(D) REDUCED DATA AUTHORIZED.—

6 Nothing in this title shall be construed as lim-
7 iting the authority of the Secretary to reduce
8 the number of data elements required of re-
9 applicants.

10 “(E) ZERO FAMILY CONTRIBUTION.—Ap-

11 plicants determined to have a zero family con-
12 tribution pursuant to section 479(c) shall not
13 be required to provide any financial data in a
14 replication form, except that which is necessary
15 to determine eligibility under such section.

16 “(5) STATE REQUIREMENTS.—

17 “(A) IN GENERAL.—Except as provided in

18 paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii),
19 the Secretary shall include on the forms devel-
20 oped under this subsection, such State-specific
21 data items as the Secretary determines are nec-
22 essary to meet State requirements for need-
23 based State aid. Such items shall be selected in
24 consultation with State agencies in order to as-
25 sist in the awarding of State financial assist-

1 ance in accordance with the terms of this sub-
2 section, except as provided in paragraphs
3 (2)(B)(iii), (3)(A), and (3)(B)(iii). The number
4 of such data items shall not be less than the
5 number included on the form for the 2005–
6 2006 award year unless a State notifies the
7 Secretary that the State no longer requires
8 those data items for the distribution of State
9 need-based aid.

10 “(B) ANNUAL REVIEW.—The Secretary
11 shall conduct an annual review process to deter-
12 mine which data items the States require to
13 award need-based State aid.

14 “(C) ENCOURAGE USE OF FORMS.—The
15 Secretary shall encourage States to take such
16 steps as are necessary to encourage the use of
17 simplified application forms, including those de-
18 scribed in paragraphs (2)(B) and (3)(B), for
19 applicants who meet the requirements of sub-
20 section (b) or (c) of section 479.

21 “(D) FEDERAL REGISTER NOTICE.—The
22 Secretary shall publish, on an annual basis, a
23 notice in the Federal Register requiring States
24 to inform the Secretary—

1 “(i) if the State plans to use the
2 FAFSA to collect data to determine eligi-
3 bility for State need-based financial aid;

4 “(ii) of the State-specific data that
5 the State requires for delivery of State
6 need-based financial aid; and

7 “(iii) if the State agency is unable to
8 permit applicants to utilize the simplified
9 application forms described in paragraph
10 (2)(B) or (3)(B).

11 “(E) STATE NOTIFICATION TO THE SEC-
12 RETARY.—

13 “(i) IN GENERAL.—Each State agency
14 shall notify the Secretary—

15 “(I) whether the State permits
16 an applicant to file a form described
17 in paragraph (2)(B) or (3)(B) for
18 purposes of determining eligibility for
19 State need-based financial aid; and

20 “(II) of the State-specific data
21 that the State requires for delivery of
22 State need-based financial aid.

23 “(ii) ACCEPTANCE OF FORMS.—If a
24 State does not permit an applicant to file
25 a form described in paragraph (2)(B) or

1 (3)(B) for purposes of determining eligi-
2 bility for State need-based financial aid,
3 then the State shall notify the Secretary if
4 it is not permitted to do so because of
5 State law or agency policy. The notification
6 shall include an acknowledgment that
7 State-specific questions will not be included
8 on a form described in paragraph (2)(B)
9 or (3)(B).

10 “(iii) LACK OF NOTIFICATION BY THE
11 STATE.—If a State does not notify the
12 Secretary pursuant to clause (i), the Sec-
13 retary shall—

14 “(I) permit residents of that
15 State to complete simplified applica-
16 tion forms under paragraphs (2)(B)
17 and (3)(B); and

18 “(II) not require any resident of
19 such State to complete any data pre-
20 viously required by that State under
21 this section.

22 “(F) RESTRICTION.—The Secretary shall
23 not require applicants to complete any financial
24 or non-financial data that are not required by
25 the applicant’s State, except as may be required

1 for applicants who use the paper forms de-
2 scribed in subparagraphs (A) and (B) of para-
3 graph (2).

4 “(6) CHARGES TO STUDENTS AND PARENTS
5 FOR USE OF FORMS PROHIBITED.—The common fi-
6 nancial reporting forms prescribed by the Secretary
7 under this subsection shall be produced, distributed,
8 and processed by the Secretary, and no parent or
9 student shall be charged a fee by the Secretary, a
10 contractor, a third-party servicer or private software
11 provider, or any other public or private entity for the
12 collection, processing, or delivery of financial aid
13 through the use of such forms. The need and eligi-
14 bility of a student for financial assistance under
15 parts A through E (other than under subpart 4 of
16 part A) may be determined only by using a form de-
17 veloped by the Secretary pursuant to this subsection.
18 No student may receive financial assistance under
19 parts A through E (other than under subpart 4 of
20 part A), except by use of a form developed by the
21 Secretary pursuant to this subsection. No data col-
22 lected on a paper or electronic form or other docu-
23 ment that the Secretary determines was created to
24 replace a form prescribed under this subsection and
25 therefore violates the integrity of a simplified and

1 free financial aid application process and for which
2 a fee is charged shall be used to complete the form
3 prescribed under this subsection. No person, com-
4 mercial entity, or other entity shall request, obtain,
5 or utilize an applicant's personal identification num-
6 ber assigned under paragraph (3)(F) for purposes of
7 submitting an application on an applicant's behalf.

8 “(7) APPLICATION PROCESSING CYCLE.—The
9 Secretary shall—

10 “(A) enable students to submit forms cre-
11 ated under this subsection in order to meet the
12 filing requirements of this section and in order
13 to receive financial assistance from programs
14 under this title; and

15 “(B) enable students to submit forms cre-
16 ated under this subsection and initiate the proc-
17 essing of such forms under this subsection, as
18 early as practicable prior to January 1 of the
19 student's planned year of enrollment.

20 “(8) EARLY ESTIMATES.—The Secretary shall
21 permit an applicant to complete a form described in
22 this subsection in the years prior to enrollment in
23 order to obtain from the Secretary a nonbinding es-
24 timate of the applicant's expected family contribu-
25 tion, as defined in section 473. Such applicant shall

1 be permitted to update information submitted on a
2 form described in this subsection using the process
3 required under paragraph (4).

4 “(9) DISTRIBUTION OF DATA.—Institutions of
5 higher education, guaranty agencies, and States
6 shall receive, without charge, the data collected by
7 the Secretary using the form developed pursuant to
8 this subsection for the purposes of processing loan
9 applications and determining need and eligibility for
10 institutional and State financial aid awards. Entities
11 designated by institutions of higher education, guar-
12 anty agencies, or States to receive such data shall be
13 subject to all the requirements of this section, unless
14 such requirements are waived by the Secretary.

15 “(10) THIRD PARTY SERVICERS AND PRIVATE
16 SOFTWARE PROVIDERS.—To the extent practicable
17 and in a timely manner, the Secretary shall provide,
18 to private organizations and consortia that develop
19 software used by institutions of higher education for
20 the administration of funds under this title, all the
21 necessary specifications that the organizations and
22 consortia must meet for the software the organiza-
23 tions and consortia develop, produce, and distribute
24 (including any diskette, modem, or network commu-
25 nications) which are so used. The specifications shall

1 contain record layouts for required data. The Sec-
2 retary shall develop in advance of each processing
3 cycle an annual schedule for providing such speci-
4 fications. The Secretary, to the extent practicable,
5 shall use means of providing such specifications, in-
6 cluding conferences and other meetings, outreach,
7 and technical support mechanisms (such as training
8 and printed reference materials). The Secretary
9 shall, from time to time, solicit from such organiza-
10 tions and consortia means of improving the support
11 provided by the Secretary.

12 “(11) PARENT’S SOCIAL SECURITY NUMBER
13 AND BIRTH DATE.—The Secretary is authorized to
14 include on the form developed under this subsection
15 space for the social security number and birth date
16 of parents of dependent students seeking financial
17 assistance under this title.”;

18 (2) by redesignating subsections (c) through (e)
19 as subsections (b) through (d), respectively;

20 (3) in subsection (c) (as redesignated by para-
21 graph (2)), by striking “that is authorized” and all
22 that follows through the period at the end and in-
23 serting “or other appropriate provider of technical
24 assistance and information on postsecondary edu-
25 cational services that is authorized under section

1 663(a) of the Individuals with Disabilities Education
2 Act. Not later than 2 years after the date of enact-
3 ment of the Higher Education Amendments of 2005,
4 the Secretary shall test and implement, to the extent
5 practicable, a toll-free telephone based system to
6 permit applicants who meet the requirements of
7 479(c) to submit an application over such system.”;
8 and

9 (4) by striking subsection (d) (as redesignated
10 by paragraph (2)) and inserting the following:

11 “(d) ASSISTANCE IN PREPARATION OF FINANCIAL
12 AID APPLICATION.—

13 “(1) PREPARATION AUTHORIZED.—Notwith-
14 standing any provision of this Act, an applicant may
15 use a preparer for consultative or preparation serv-
16 ices for the completion of the common financial re-
17 porting forms described in subsection (a) if the pre-
18 parer satisfies the requirements of this subsection.

19 “(2) PREPARER IDENTIFICATION.—Any com-
20 mon financial reporting form required to be made
21 under this title shall include the name, signature,
22 address or employer’s address, social security num-
23 ber or employer identification number, and organiza-
24 tional affiliation of the preparer of such common fi-
25 nancial reporting form.

1 “(3) ADDITIONAL REQUIREMENTS.—A preparer
2 that provides consultative or preparation services
3 pursuant to this subsection shall—

4 “(A) clearly inform individuals upon initial
5 contact (including advertising in clear and con-
6 spicuous language on the website of the pre-
7 parer, including by providing a link directly to
8 the website described in subsection (a)(3), if the
9 preparer provides such services through a
10 website) that the common financial reporting
11 forms that are required to determine eligibility
12 for financial assistance under parts A through
13 E (other than subpart 4 of part A) may be
14 completed for free via paper or electronic forms
15 provided by the Secretary;

16 “(B) refrain from producing or dissemi-
17 nating any form other than the forms produced
18 by the Secretary under subsection (a); and

19 “(C) not charge any fee to any individual
20 seeking such services who meets the require-
21 ments of subsection (b) or (c) of section 479.

22 “(4) SPECIAL RULE.—Nothing in this Act shall
23 be construed to limit preparers of the common finan-
24 cial reporting forms required to be made under this
25 title who meet the requirements of this subsection

1 from collecting source information from a student or
 2 parent, including Internal Revenue Service tax
 3 forms, in providing consultative and preparation
 4 services in completing the forms.”.

5 **SEC. 7434. STUDENT ELIGIBILITY.**

6 Section 484 (20 U.S.C. 1091) is amended—

7 (1) in subsection (d), by adding at the end the
 8 following:

9 “(4) The student shall be determined by the in-
 10 stitution of higher education as having the ability to
 11 benefit from the education or training offered by the
 12 institution of higher education, upon satisfactory
 13 completion of 6 credit hours or the equivalent
 14 coursework that are applicable toward a degree or
 15 certificate offered by the institution of higher edu-
 16 cation.”;

17 (2) by striking subsection (l) and inserting the
 18 following:

19 “(1) COURSES OFFERED THROUGH DISTANCE EDU-
 20 CATION.—

21 “(1) RELATION TO CORRESPONDENCE
 22 COURSES.—

23 “(A) IN GENERAL.—A student enrolled in
 24 a course of instruction at an institution of high-
 25 er education that is offered principally through

1 distance education and leads to a recognized
2 certificate, or associate, baccalaureate, or grad-
3 uate degree, conferred by such institution, shall
4 not be considered to be enrolled in correspond-
5 ence courses.

6 “(B) EXCEPTION.—An institution of high-
7 er education referred to in subparagraph (A)
8 shall not include an institution or school de-
9 scribed in section 3(3)(C) of the Carl D. Per-
10 kins Vocational and Technical Education Act of
11 1998.

12 “(2) RESTRICTION OR REDUCTIONS OF FINAN-
13 CIAL AID.—A student’s eligibility to receive grants,
14 loans, or work assistance under this title shall be re-
15 duced if a financial aid officer determines under the
16 discretionary authority provided in section 479A
17 that distance education results in a substantially re-
18 duced cost of attendance to such student.

19 “(3) SPECIAL RULE.—For award years prior to
20 the date of enactment of this subsection, the Sec-
21 retary shall not take any compliance, disallowance,
22 penalty, or other action against a student or an eli-
23 gible institution when such action arises out of such
24 institution’s prior award of student assistance under
25 this title if the institution demonstrates to the satis-

1 faction of the Secretary that its course of instruction
2 would have been in conformance with the require-
3 ments of this subsection.

4 “(4) DEFINITION.—In this subsection, the term
5 ‘distance education’ has the meaning given the term
6 in section 102.”; and

7 (3) in subsection (r)—

8 (A) in the matter preceding the table, by
9 inserting “of a controlled substance, while such
10 student is enrolled in an institution of higher
11 education and receiving financial assistance
12 under this title,” after “the possession”;

13 (B) in the column heading of the first
14 table, by inserting “**while the student is**
15 **enrolled in an institution of higher**
16 **education and receiving financial as-**
17 **sistance under this title**” after “**posses-**
18 **sion of a controlled substance**”; and

19 (C) by redesignating paragraph (3) as
20 paragraph (4); and

21 (D) by inserting after paragraph (2) the
22 following:

23 “(2) INTERACTION WITH FAFSA.—The Sec-
24 retary shall not require a student to provide infor-
25 mation regarding the student’s possession of a con-

1 trolled substance on the Free Application for Fed-
2 eral Student Aid described in section 483(a).”.

3 **SEC. 7435. STATUTE OF LIMITATIONS AND STATE COURT**
4 **JUDGMENTS.**

5 Section 484A (20 U.S.C. 1091a) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by striking “and”
8 after the semicolon;

9 (B) in paragraph (2), by striking the pe-
10 riod and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(3) in collecting any obligation arising from a
13 loan made under part E of this title, an institution
14 of higher education that has an agreement with the
15 Secretary pursuant to section 463(a) shall not be
16 subject to a defense raised by any borrower based on
17 a claim of infancy.”; and

18 (2) by adding at the end the following:

19 “(d) SPECIAL RULE.—This section shall not apply in
20 the case of a student who is deceased or to a deceased
21 student’s estate or the estate of such student’s family. If
22 a student is deceased, then the student’s estate or the es-
23 tate of the student’s family shall not be required to repay
24 any financial assistance under this title , including interest

1 paid on the student's behalf, collection costs, or other
2 charges specified in this title.”.

3 **SEC. 7436. INSTITUTIONAL REFUNDS.**

4 Section 484B (20 U.S.C. 1091B) is amended—

5 (1) in subsection (a)—

6 (A) in the matter preceding clause (i) of
7 paragraph (2)(A), by striking “a leave of” and
8 inserting “1 or more leaves of”; and

9 (B) in paragraph (3)(C)(i), by striking
10 “grant or loan assistance under this title” and
11 inserting “grant assistance under subparts 1
12 and 3 of part A, or loan assistance under parts
13 B, D, and E,”;

14 (2) in subsection (b), by adding at the end the
15 following:

16 “(4) TIME FRAME.—Not later than 45 days
17 after the date of an institution's determination that
18 a student withdrew from the institution, the institu-
19 tion shall—

20 “(A) return the amount required under
21 paragraph (1);

22 “(B) notify the student of the applicable
23 requirements regarding the overpayment of
24 grant and loan assistance and

1 “(C) notify the student of the student’s eli-
2 gibility for post-withdrawal disbursements.”;

3 (3) in subsection (c)(2), by striking “may deter-
4 mine the appropriate withdrawal date.” and insert-
5 ing “may determine—

6 (A) the appropriate withdrawal date; and

7 “(B) that the requirements of this section
8 do not apply to the student.”; and

9 (4) in subsection (d)(2), by striking “clock
10 hours—” and all that follows through the period and
11 inserting “clock hours scheduled to be completed by
12 the student in that period as of the day the student
13 withdrew.”.

14 **SEC. 7437. INSTITUTIONAL AND FINANCIAL ASSISTANCE**
15 **FOR STUDENTS.**

16 Section 485 (20 U.S.C. 1092) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1)—

19 (i) in subparagraph (N), by striking
20 “and” after the semicolon;

21 (ii) in subparagraph (O), by striking the period
22 and inserting a semicolon; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(P) student body diversity at the institution,
2 including information on the percentage of enrolled,
3 full-time students who are—

4 “(i) male;

5 “(ii) female;

6 “(iii) from a low-income background; and

7 “(iv) a self-identified member of a major
8 racial or ethnic group;

9 “(Q) the placement in employment of, and
10 types of employment obtained by, graduates of
11 the institution’s degree or certificate programs,
12 gathered from such sources as alumni surveys,
13 student satisfaction surveys, the National Sur-
14 vey of Student Engagement, the Community
15 College Survey of Student Engagement, State
16 data systems, or other relevant sources; and

17 “(R) the types of graduate and profes-
18 sional education in which graduates of the insti-
19 tution’s 4-year degree programs enrolled, gath-
20 ered from such sources as alumni surveys, stu-
21 dent satisfaction surveys, the National Survey
22 of Student Engagement, State data systems, or
23 other relevant sources.”;

24 (B) by striking paragraph (4) and insert-
25 ing the following:

1 “(4) For purposes of this section, institutions
2 may—

3 “(A) exclude from the information dis-
4 closed in accordance with subparagraph (L) of
5 paragraph (1) the completion or graduation
6 rates of students who leave school to serve in
7 the Armed Forces, on official church missions,
8 or with a recognized foreign aid service of the
9 Federal Government; or

10 “(B) in cases where the students described
11 in subparagraph (A) represent 20 percent or
12 more of the certificate- or degree-seeking, full-
13 time, undergraduate students at the institution,
14 the institution may recalculate the completion
15 or graduation rates of such students by exclud-
16 ing from the calculation described in paragraph
17 (3) the time period such students were not en-
18 rolled due to their service in the Armed Forces,
19 on official church missions, or with a recognized
20 foreign aid service of the Federal Govern-
21 ment.”; and

22 (C) by adding at the end the following:

23 “(7) The information disclosed under subparagraph
24 (L) of paragraph (1), or reported under subsection (e),
25 shall include information disaggregated by gender, by each

1 major racial and ethnic subgroup, and by low-income
2 background status as measured by Federal Pell Grant eli-
3 gibility, if the number of students in such subgroup or
4 with such status is sufficient to yield statistically reliable
5 information and reporting would not reveal personally
6 identifiable information about an individual student. If
7 such number is not sufficient for such purposes, then the
8 institution shall note that the institution enrolled too few
9 of such students to so disclose or report with confidence
10 and confidentiality.”;

11 (2) in subsection (b), by adding at the end the
12 following:

13 “(3) Each eligible institution shall, during the
14 exit interview required by this subsection, provide to
15 a borrower of a loan made under part B, D, or E
16 a clear and conspicuous notice describing the general
17 effects of using a consolidation loan to discharge the
18 borrower’s student loans, including—

19 “(A) the effects of consolidation on total
20 interest to be paid, fees to be paid, and length
21 of repayment;

22 “(B) the effects of consolidation on a bor-
23 rower’s underlying loan benefits, including loan
24 forgiveness, cancellation, and deferment;

1 “(C) the ability for the borrower to prepay
2 the loan, pay on a shorter schedule, and to
3 change repayment plans, and that borrower
4 benefit programs may vary among different
5 loan holders;

6 “(D) the tax benefits for which the bor-
7 rower may be eligible; and

8 “(E) the consequences of default.”;

9 (3) in subsection (d)(2)—

10 (A) by inserting “grant assistance, as well
11 as State” after “describing State”; and

12 (B) by inserting “and other means, includ-
13 ing through the Internet” before the period at
14 the end;

15 (4) in subsection (e), by striking paragraph (3)
16 and inserting the following:

17 “(3) For purposes of this subsection, institu-
18 tions may—

19 “(A) exclude from the reporting require-
20 ments under paragraphs (1) and (2) the com-
21 pletion or graduation rates of students and stu-
22 dent athletes who leave school to serve in the
23 Armed Forces, on official church missions, or
24 with a recognized foreign aid service of the Fed-
25 eral Government; or

1 “(B) in cases where the students described
2 in subparagraph (A) represent 20 percent or
3 more of the certificate- or degree-seeking, full-
4 time, undergraduate students at the institution,
5 the institution may calculate the completion or
6 graduation rates of such students by excluding
7 from the calculations described in paragraph
8 (1) the time period such students were not en-
9 rolled due to their service in the Armed Forces,
10 on official church missions, or with a recognized
11 foreign aid service of the Federal Govern-
12 ment.”;

13 (5) in the matter preceding subparagraph (A)
14 of subsection (f)(1), by inserting “, other than a for-
15 eign institution of higher education,” after “under
16 this title”; and

17 (6) by adding at the end the following:

18 “(h) TRANSFER OF CREDIT POLICIES.—

19 “(1) DISCLOSURE.—Each institution of higher
20 education participating in any program under this
21 title shall publicly disclose in a readable and com-
22 prehensible manner the institution’s transfer of cred-
23 it policies which shall include a statement of the in-
24 stitution’s current transfer of credit policies that in-
25 cludes, at a minimum—

1 “(A) a statement that transfer of credit
2 shall not be denied solely on the basis of the
3 agency or association that accredited such other
4 institution of higher education, if that agency
5 or association is recognized by the Secretary
6 pursuant to section 496 to be a reliable author-
7 ity as to the quality of the education or training
8 offered;

9 “(B) a list of institutions of higher edu-
10 cation with which the institution has established
11 an articulation agreement; and

12 “(C) the percentage of students at the in-
13 stitution who successfully transfer academic
14 credits, updated on an annual basis.

15 “(2) RULE OF CONSTRUCTION.—Nothing in
16 this subsection shall be construed to—

17 “(A) authorize an officer or employee of
18 the Department to exercise any direction, su-
19 pervision, or control over the curriculum, pro-
20 gram of instruction, administration, or per-
21 sonnel of any institution of higher education, or
22 over any accrediting agency or association;

23 “(B) limit the application of the General
24 Education Provisions Act; or

1 ance and college access, public libraries, community cen-
2 ters, employers, and businesses, a comprehensive system
3 of early financial aid information in order to provide stu-
4 dents and families with early information about financial
5 aid and early estimates of such students' eligibility for fi-
6 nancial aid from multiple sources. Such system shall in-
7 clude the activities described in subsections (b) and (c).

8 “(b) COMMUNICATION OF AVAILABILITY OF AID AND
9 AID ELIGIBILITY.—

10 “(1) STUDENTS WHO RECEIVE BENEFITS.—The
11 Secretary shall—

12 “(A) make special efforts to notify stu-
13 dents who receive or are eligible to receive bene-
14 fits under Federal means-tested benefit pro-
15 grams (including the school lunch program es-
16 tablished under the Richard B. Russell National
17 School Lunch Act (42 U.S.C. 1751 et seq.), the
18 food stamp program under the Food Stamp Act
19 of 1977 (7 U.S.C. 2011 et seq.), and other such
20 programs as determined by the Secretary) of
21 such students' potential eligibility for a max-
22 imum Federal Pell Grant under subpart 1 of
23 part A; and

24 “(B) disseminate such informational mate-
25 rials as the Secretary determines necessary.

1 “(2) MIDDLE SCHOOL STUDENTS.—The Sec-
2 retary, in cooperation with States, institutions of
3 higher education, other organizations involved in col-
4 lege access and student financial aid, middle schools,
5 and programs under this title that serve middle
6 school students, shall make special efforts to notify
7 students and their parents of the availability of fi-
8 nancial aid under this title and, in accordance with
9 subsection (c), shall provide nonbinding estimates of
10 grant and loan aid that an individual may be eligible
11 for under this title upon completion of an applica-
12 tion form under section 483(a). The Secretary shall
13 ensure that such information is as accurate as pos-
14 sible and that such information is provided in an
15 age-appropriate format using dissemination mecha-
16 nisms suitable for students in middle school.

17 “(3) SECONDARY SCHOOL STUDENTS.—The
18 Secretary, in cooperation with States, institutions of
19 higher education, other organizations involved in col-
20 lege access and student financial aid, secondary
21 schools, and programs under this title that serve sec-
22 ondary school students, shall make special efforts to
23 notify students in secondary school and their par-
24 ents, as early as possible but not later than such
25 students’ junior year of secondary school, of the

1 availability of financial aid under this title and, in
2 accordance with subsection (c), shall provide non-
3 binding estimates of the amounts of grant and loan
4 aid that an individual may be eligible for under this
5 title upon completion of an application form under
6 section 483(a). The Secretary shall ensure that such
7 information is as accurate as possible and that such
8 information is provided in an age-appropriate format
9 using dissemination mechanisms suitable for stu-
10 dents in secondary school.

11 “(4) ADULT LEARNERS.—The Secretary, in co-
12 operation with States, institutions of higher edu-
13 cation, other organizations involved in college access
14 and student financial aid, employers, workforce in-
15 vestment boards and public libraries, shall make spe-
16 cial efforts to provide individuals who would qualify
17 as independent students, as defined in section
18 480(d), with information regarding the availability
19 of financial aid under this title and, in accordance
20 with subsection (c), with nonbinding estimates of the
21 amounts of grant and loan aid that an individual
22 may be eligible for under this title upon completion
23 of an application form under section 483(a). The
24 Secretary shall ensure that such information—

25 “(A) is as accurate as possible;

1 “(B) includes specific information regard-
2 ing the availability of financial aid for students
3 qualified as independent students, as defined in
4 section 480(d); and

5 “(C) uses dissemination mechanisms suit-
6 able for adult learners.

7 “(5) PUBLIC AWARENESS CAMPAIGN.—Not
8 later than 2 years after the date of enactment of the
9 Higher Education Amendments of 2005, the Sec-
10 retary, in coordination with States, institutions of
11 higher education, early intervention and outreach
12 programs under this title, other agencies and organi-
13 zations involved in student financial aid, local edu-
14 cational agencies, public libraries, community cen-
15 ters, businesses, employers, employment services,
16 workforce investment boards, and movie theaters,
17 shall implement a public awareness campaign in
18 order to increase national awareness regarding the
19 availability of financial aid under this title. The pub-
20 lic awareness campaign shall disseminate accurate
21 information regarding the availability of financial
22 aid under this title and shall be implemented, to the
23 extent practicable, using a variety of media, includ-
24 ing print, television, radio and the Internet. The
25 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

1 loan aid an individual may be eligible for under this
2 title.

3 “(3) QUALIFICATION TO USE SIMPLIFIED AP-
4 PPLICATION.—The capability provided under this
5 paragraph shall include the capability to determine
6 whether the individual is eligible to submit a sim-
7 plified application form under paragraph (2)(B) or
8 (3)(B) of section 483(a).”.

9 **SEC. 7440. COLLEGE ACCESS INITIATIVE.**

10 Part G of title IV (20 U.S.C. 1088 et seq.) is further
11 amended by inserting after section 485D (as added by sec-
12 tion 7439) the following:

13 **“SEC. 485E. COLLEGE ACCESS INITIATIVE.**

14 “(a) STATE-BY-STATE INFORMATION.—The Sec-
15 retary shall direct each guaranty agency with which the
16 Secretary has an agreement under section 428(c) to pro-
17 vide to the Secretary the information necessary for the de-
18 velopment of Internet Web links and access for students
19 and families to a comprehensive listing of the postsec-
20 ondary education opportunities programs, publications,
21 Internet Web sites, and other services available in the
22 States for which such agency serves as the designated
23 guarantor.

24 “(b) GUARANTY AGENCY ACTIVITIES.—

1 “(1) PLAN AND ACTIVITY REQUIRED.—Each
2 guaranty agency with which the Secretary has an
3 agreement under section 428(c) shall develop a plan,
4 and undertake the activity, necessary to gather the
5 information required under subsection (a) and to
6 make such information available to the public and to
7 the Secretary in a form and manner prescribed by
8 the Secretary.

9 “(2) ACTIVITIES.—Each guaranty agency shall
10 undertake such activities as are necessary to pro-
11 mote access to postsecondary education for students
12 through providing information on college planning,
13 career preparation, and paying for college. The guar-
14 anty agency shall publicize such information and co-
15 ordinate such activities with other entities that pro-
16 vide or distribute such information in the States for
17 which such guaranty agency serves as the designated
18 guarantor.

19 “(3) FUNDING.—The activities required by this
20 section may be funded from the guaranty agency’s
21 Operating Fund established pursuant to section
22 422B and to the extent funds remain, from earnings
23 on the restricted account established pursuant to
24 section 422(h)(4).

1 “(4) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall require a guaranty agency to
3 duplicate any efforts currently underway that meet
4 the requirements of this subsection.

5 “(c) ACCESS TO INFORMATION.—

6 “(1) SECRETARY’S RESPONSIBILITY.—The Sec-
7 retary shall ensure the availability of the information
8 provided, by the guaranty agencies in accordance
9 with this section, to students, parents, and other in-
10 terested individuals, through Web links or other
11 methods prescribed by the Secretary.

12 “(2) GUARANTY AGENCY RESPONSIBILITY.—
13 The guaranty agencies shall ensure that the infor-
14 mation required by this section is available without
15 charge in printed format for students and parents
16 requesting such information.

17 “(3) PUBLICITY.—Not later than 270 days
18 after the date of enactment of the Higher Education
19 Amendments Act of 2005, the Secretary and guar-
20 anty agencies shall publicize the availability of the
21 information required by this section, with special
22 emphasis on ensuring that populations that are tra-
23 ditionally underrepresented in postsecondary edu-
24 cation are made aware of the availability of such in-
25 formation.”.

1 **SEC. 7441. PROGRAM PARTICIPATION AGREEMENTS.**

2 Section 487 (20 U.S.C. 1094) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (23), by adding at the
5 end the following:

6 “(D) An institution shall be considered in
7 compliance with the requirements of subpara-
8 graph (A) for any student to whom the institu-
9 tion electronically transmits a message con-
10 taining a voter registration form acceptable for
11 use in the State in which the institution is lo-
12 cated, or an Internet address where such a
13 form can be downloaded, if such information is
14 in an electronic message devoted solely to voter
15 registration.”; and

16 (B) by adding at the end the following:

17 “(24) The institution will, as calculated in ac-
18 cordance with subsection (g)(1), have not less than
19 10 percent of its revenues from sources other than
20 funds provided under this title, or will be subject to
21 the sanctions described in subsection (g)(2).”;

22 (2) in subsection (c)(1)(A)(i), by inserting “,
23 except that the Secretary may modify the require-
24 ments of this clause with regard to an institution
25 outside the United States” before the semicolon at
26 the end;

1 (3) by redesignating subsections (d) and (e) as
2 subsection (e) and (f), respectively;

3 (4) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) INSTITUTIONAL REQUIREMENTS FOR TEACH-
6 OUTS.—

7 “(1) IN GENERAL.—In the event the Secretary
8 initiates the limitation, suspension, or termination of
9 the participation of an institution of higher edu-
10 cation in any program under this title under the au-
11 thority of subsection (c)(1)(F) or initiates an emer-
12 gency action for termination under the authority of
13 subsection (c)(1)(G) and its prescribed regulations,
14 the Secretary shall require that institution to pre-
15 pare a teach-out plan for submission to the institu-
16 tion’s accrediting agency or association in compli-
17 ance with section 496(c)(4), the Secretary’s regula-
18 tions on teach-out plans, and the standards of the
19 institution’s accrediting agency or association.

20 “(2) TEACH-OUT PLAN DEFINED.—In this sub-
21 section, the term ‘teach-out plan’ means a written
22 plan that provides for the equitable treatment of stu-
23 dents if an institution of higher education ceases to
24 operate before all students have completed their pro-
25 gram of study, and may include, if required by the

1 institution's accrediting agency or association, an
2 agreement between institutions for such a teach-out
3 plan.”; and

4 (5) by adding at the end the following:

5 “(g) IMPLEMENTATION OF NONTITLE IV REVENUE
6 REQUIREMENT.—

7 “(1) CALCULATION.—In carrying out sub-
8 section (a)(24), an institution shall use the cash
9 basis of accounting and count the following funds as
10 from sources of funds other than funds provided
11 under this title:

12 “(A) Funds used by students from sources
13 other than funds received under this title to pay
14 tuition, fees, and other institutional charges to
15 the institution, provided the institution can rea-
16 sonably demonstrate that such funds were used
17 for such purposes.

18 “(B) Funds used by the institution to sat-
19 isfy matching-fund requirements for programs
20 under this title.

21 “(C) Funds used by a student from sav-
22 ings plans for educational expenses established
23 by or on behalf of the student and which qualify
24 for special tax treatment under the Internal
25 Revenue Code of 1986.

1 “(D) Funds paid by a student, or on be-
2 half of a student by a party other than the in-
3 stitution, to the institution for an education or
4 training program that is not eligible for funds
5 under this title, provided that the program is
6 approved or licensed by the appropriate State
7 agency or an accrediting agency recognized by
8 the Secretary.

9 “(E) Funds generated by the institution
10 from institutional activities that are necessary
11 for the education and training of the institu-
12 tion’s students, if such activities are—

13 “(i) conducted on campus or at a fa-
14 cility under the control of the institution;

15 “(ii) performed under the supervision
16 of a member of the institution’s faculty;
17 and

18 “(iii) required to be performed by all
19 students in a specific educational program
20 at the institution.

21 “(F) Institutional aid, as follows:

22 “(i) In the case of loans made by the
23 institution, only the amount of loan repay-
24 ments received by the institution during

1 the fiscal year for which the determination
2 is made.

3 “(ii) In the case of scholarships pro-
4 vided by the institution, only those scholar-
5 ship funds provided by the institution that
6 are—

7 “(I) in the form of monetary aid
8 based upon the academic achieve-
9 ments or financial need of students;
10 and

11 “(II) disbursed during the fiscal
12 year for which the determination is
13 made from an established restricted
14 account and only to the extent that
15 the funds in that account represent
16 designated funds from an outside
17 source or income earned on those
18 funds.

19 “(iii) In the case of tuition discounts,
20 only those tuition discounts based upon the
21 academic achievement or financial need of
22 students.

23 “(2) SANCTIONS.—

24 “(A) FAILURE TO MEET REQUIREMENT
25 FOR 1 YEAR.—In addition to such other means

1 of enforcing the requirements of this title as
2 may be available to the Secretary, if an institu-
3 tion fails to meet the requirements of sub-
4 section (a)(24) in any year, the Secretary may
5 impose 1 or both of the following sanctions on
6 the institution:

7 “(i) Place the institution on provi-
8 sional certification in accordance with sec-
9 tion 498(h) until the institution dem-
10 onstrates, to the satisfaction of the Sec-
11 retary, that it is in compliance with sub-
12 section (a)(24).

13 “(ii) Require such other increased
14 monitoring and reporting requirements as
15 the Secretary determines necessary until
16 the institution demonstrates, to the satis-
17 faction of the Secretary, that it is in com-
18 pliance with subsection (a)(24).

19 “(B) FAILURE TO MEET REQUIREMENT
20 FOR 2 YEARS.—An institution that fails to meet
21 the requirements of subsection (a)(24) for 2
22 consecutive years shall be ineligible to partici-
23 pate in the programs authorized under this
24 title.

1 “(3) PUBLIC AVAILABILITY OF INFORMATION.—
2 The Secretary shall make publicly available, through
3 the means described in subsection (b) of section 131,
4 any institution that fails to meet the requirements of
5 subsection (a)(24) in any year as an institution that
6 is failing to meet the minimum non-Federal source
7 of revenue requirements of such subsection
8 (a)(24).”.

9 **SEC. 7442. REGULATORY RELIEF AND IMPROVEMENT.**

10 Section 487A(b) (20 U.S.C. 1094a(b)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “1998” and inserting
13 “2005” ; and

14 (B) by striking “1999” and inserting
15 “2006”; and

16 (2) by striking the matter preceding paragraph
17 (2)(A) and inserting the following:

18 “(2) REPORT.—The Secretary shall review and
19 evaluate the experience of institutions participating
20 as experimental sites and shall, on a biennial basis,
21 submit a report based on the review and evaluation
22 to the authorizing committees. Such report shall in-
23 clude—”; and

24 (3) in paragraph (3)—

25 (A) in subparagraph (A)—

1 (i) by striking “Upon the submission
2 of the report required by paragraph (2),
3 the” and inserting “The”; and

4 (ii) by inserting “periodically” after
5 “authorized to”;

6 (B) by striking subparagraph (B);

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

9 (D) in subparagraph (B) (as redesignated
10 by subparagraph (C))—

11 (i) by inserting “, including require-
12 ments related to the award process and
13 disbursement of student financial aid (such
14 as innovative delivery systems for modular
15 or compressed courses, or other innovative
16 systems), verification of student financial
17 aid application data, entrance and exit
18 interviews, or other management proce-
19 dures or processes as determined in the ne-
20 gotiated rulemaking process under section
21 492,” after “requirements in this title”;
22 and

23 (ii) by inserting “(other than an
24 award rule related to an experiment in

1 modular or compressed schedules)” after
2 “award rules”; and

3 (iii) by inserting “unless the waiver of
4 such provisions is authorized by another
5 provision under this title” before the pe-
6 riod at the end.

7 **SEC. 7443. TRANSFER OF ALLOTMENTS.**

8 Section 488 (20 U.S.C. 1095) is amended in the first
9 sentence—

10 (1) in paragraph (1), by striking “and” after
11 the semicolon;

12 (2) in paragraph (2), by striking “413D.” and
13 inserting “413D; and”; and

14 (3) by adding at the end “(3) transfer 25 per-
15 cent of the institution’s allotment under section
16 413D to the institution’s allotment under section
17 442.”.

18 **SEC. 7444. WAGE GARNISHMENT REQUIREMENT.**

19 Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is
20 amended by striking “10 percent” and inserting “15 per-
21 cent”.

22 **SEC. 7445. PURPOSE OF ADMINISTRATIVE PAYMENTS.**

23 Section 489(b) (20 U.S.C. 1096(b)) is amended by
24 striking “offsetting the administrative costs of” and in-
25 serting “administering”.

1 **SEC. 7446. ADVISORY COMMITTEE ON STUDENT FINANCIAL**
2 **ASSISTANCE.**

3 Section 491 (20 U.S.C. 1098) is amended—

4 (1) in subsection (a)(2)—

5 (A) in subparagraph (B), by striking
6 “and” after the semicolon;

7 (B) in subparagraph (C), by striking the
8 period and inserting a semicolon; and

9 (C) by adding at the end the following:

10 “(D) to provide knowledge and under-
11 standing of early intervention programs, and to
12 make recommendations that will result in early
13 awareness by low- and moderate-income stu-
14 dents and families—

15 “(i) of their eligibility for assistance
16 under this title; and

17 “(ii) to the extent practicable, of their
18 eligibility for other forms of State and in-
19 stitutional need-based student assistance;
20 and

21 “(E) to make recommendations that will
22 expand and improve partnerships among the
23 Federal Government, States, institutions of
24 higher education, and private entities to in-
25 crease the awareness and the total amount of

1 need-based student assistance available to low-
2 and moderate-income students.”;

3 (2) in subsection (c), by adding at the end the
4 following:

5 “(3) The appointment of a member under subpara-
6 graph (A) or (B) of paragraph (1) shall be effective upon
7 confirmation of the member by the Senate and publication
8 of such appointment in the Congressional Record.”.

9 (3) in subsection (d)(6), by striking “, but
10 nothing” and all that follows through “or analyses”;

11 (4) in subsection (j)—

12 (A) in paragraph (1)—

13 (i) by inserting “and simplification”
14 after “modernization” each place the term
15 appears; and

16 (ii) by striking “including” and all
17 that follows through “Department,”; and

18 (B) by striking paragraphs (4) and (5) and
19 inserting the following:

20 “(4) conduct a review and analysis of regula-
21 tions in accordance with subsection (l); and

22 “(5) conduct a study in accordance with sub-
23 section (m).”;

24 (5) in subsection (k), by striking “2004” and
25 inserting “2010”; and

1 (6) by adding at the end the following:

2 “(1) REVIEW AND ANALYSIS OF REGULATIONS.—

3 “(1) RECOMMENDATIONS.—The Advisory Com-
4 mittee shall make recommendations to the Secretary
5 and Congress for consideration of future legislative
6 action regarding redundant or outdated regulations
7 under this title, consistent with the Secretary’s re-
8 quirements under section 498B.

9 “(2) REVIEW AND ANALYSIS OF REGULA-
10 TIONS.—The Advisory Committee shall conduct a re-
11 view and analysis of the regulations issued under
12 this title that are in effect at the time of the review
13 and that apply to the operations or activities of par-
14 ticipants in the programs assisted under this title.
15 The review and analysis may include a determina-
16 tion of whether the regulation is duplicative, is no
17 longer necessary, is inconsistent with other Federal
18 requirements, or is overly burdensome. In con-
19 ducting the review, the Advisory Committee shall
20 pay specific attention to evaluating ways in which
21 regulations under this title affecting institutions of
22 higher education (other than institutions described
23 in section 102(a)(1)(C)), that have received in each
24 of the 2 most recent award years prior to the date
25 of enactment of the Higher Education Amendments

1 of 2005 less than \$200,000 in funds through this
2 title, may be improved, streamlined, or eliminated.

3 “(3) CONSULTATION.—

4 “(A) IN GENERAL.—In carrying out the
5 review and analysis under paragraph (2), the
6 Advisory Committee shall consult with the Sec-
7 retary, relevant representatives of institutions
8 of higher education, and individuals who have
9 expertise and experience with the regulations
10 issued under this title, in accordance with sub-
11 paragraph (B).

12 “(B) REVIEW PANELS.—The Advisory
13 Committee shall convene not less than 2 review
14 panels of representatives of the groups involved
15 in student financial assistance programs under
16 this title who have experience and expertise in
17 the regulations issued under this title to review
18 the regulations under this title, and to provide
19 recommendations to the Advisory Committee
20 with respect to the review and analysis under
21 paragraph (2). The panels shall be made up of
22 experts in areas such as the operations of the
23 financial assistance programs, the institutional
24 eligibility requirements for the financial assist-
25 ance programs, regulations not directly related

1 to the operations or the institutional eligibility
2 requirements of the financial assistance pro-
3 grams, and regulations for dissemination of in-
4 formation to students about the financial assist-
5 ance programs.

6 “(4) REPORTS TO CONGRESS.—The Advisory
7 Committee shall submit, not later than 2 years after
8 the completion of the negotiated rulemaking process
9 required under section 492 resulting from the
10 amendments to this Act made by the Higher Edu-
11 cation Amendments of 2005, a report to the author-
12 izing committees and the Secretary detailing the ex-
13 pert panels’ findings and recommendations with re-
14 spect to the review and analysis under paragraph
15 (2).

16 “(5) ADDITIONAL SUPPORT.—The Secretary
17 and the Inspector General of the Department shall
18 provide such assistance and resources to the Advi-
19 sory Committee as the Secretary and Inspector Gen-
20 eral determine are necessary to conduct the review
21 required by this subsection.

22 “(m) STUDY OF INNOVATIVE PATHWAYS TO BACCA-
23 LAUREATE DEGREE ATTAINMENT.—

24 “(1) STUDY REQUIRED.—The Advisory Com-
25 mittee shall conduct a study of the feasibility of in-

1 creasing baccalaureate degree attainment rates by
2 reducing the costs and financial barriers to attaining
3 a baccalaureate degree through innovative programs.

4 “(2) SCOPE OF STUDY.—The Advisory Com-
5 mittee shall examine new and existing programs that
6 promote baccalaureate degree attainment through
7 innovative ways, such as dual or concurrent enroll-
8 ment programs, changes made to the Federal Pell
9 Grant program, simplification of the needs analysis
10 process, compressed or modular scheduling, articula-
11 tion agreements, and programs that allow 2-year in-
12 stitutions of higher education to offer baccalaureate
13 degrees.

14 “(3) REQUIRED ASPECTS OF THE STUDY.—In
15 performing the study described in this subsection,
16 the Advisory Committee shall examine the following
17 aspects of such innovative programs:

18 “(A) The impact of such programs on bac-
19 calaureate attainment rates.

20 “(B) The degree to which a student’s total
21 cost of attaining a baccalaureate degree can be
22 reduced by such programs.

23 “(C) The ways in which low- and mod-
24 erate-income students can be specifically tar-
25 geted by such programs.

1 “(D) The ways in which nontraditional
2 students can be specifically targeted by such
3 programs.

4 “(E) The cost-effectiveness for the Federal
5 Government, States, and institutions of higher
6 education to implement such programs.

7 “(4) CONSULTATION.—

8 “(A) IN GENERAL.—In performing the
9 study described in this subsection the Advisory
10 Committee shall consult with a broad range of
11 interested parties in higher education, including
12 parents, students, appropriate representatives
13 of secondary schools and institutions of higher
14 education, appropriate State administrators, ad-
15 ministrators of dual enrollment programs, and
16 appropriate officials from the Department.

17 “(B) CONGRESSIONAL CONSULTATION.—
18 The Advisory Committee shall consult on a reg-
19 ular basis with the authorizing committees in
20 carrying out the study required by this section.

21 “(5) REPORTS TO CONGRESS.—

22 “(A) INTERIM REPORT.—The Advisory
23 Committee shall prepare and submit to the au-
24 thorizing committees and the Secretary 1 in-
25 terim report, not later than 1 year after the

1 date of enactment of the Higher Education
2 Amendments of 2005, describing the progress
3 that has been made in conducting the study re-
4 quired by this subsection and any preliminary
5 findings on the topics identified under para-
6 graph (2).

7 “(B) FINAL REPORT.—The Advisory Com-
8 mittee shall, not later than 3 years after the
9 date of enactment of the Higher Education
10 Amendments of 2005, prepare and submit to
11 the authorizing committees and the Secretary a
12 final report on the study, including rec-
13 ommendations for legislative, regulatory, and
14 administrative changes based on findings re-
15 lated to the topics identified under paragraph
16 (2).”.

17 **SEC. 7447. REGIONAL MEETINGS.**

18 Section 492(a)(1) (20 U.S.C. 1098a(a)(1)) is amend-
19 ed by inserting “State student grant agencies,” after “in-
20 stitutions of higher education,”.

21 **SEC. 7448. YEAR 2000 REQUIREMENTS AT THE DEPART-**
22 **MENT.**

23 (a) REPEAL.—Section 493A (20 U.S.C. 1098c) is re-
24 pealed.

1 (b) REDESIGNATION.—Section 493B (20 U.S.C.
2 1098d) is redesignated as section 493A.

3 **Subchapter H—Program Integrity**

4 **SEC. 7451. RECOGNITION OF ACCREDITING AGENCY OR AS-**
5 **SOCIATION.**

6 Section 496 (200 U.S.C. 1099b) is amended—

7 (1) in subsection (a)—

8 (A) by striking paragraph (4) and insert-
9 ing the following:

10 “(4)(A) such agency or association consistently
11 applies and enforces standards that respect the stat-
12 ed mission of the institution of higher education, in-
13 cluding religious missions, and that ensure that the
14 courses or programs of instruction, training, or
15 study offered by the institution of higher education,
16 including distance education courses or programs,
17 are of sufficient quality to achieve, for the duration
18 of the accreditation period, the stated objective for
19 which the courses or the programs are offered; and

20 “(B) if such agency or association has or seeks
21 to include within its scope of recognition the evalua-
22 tion of the quality of institutions or programs offer-
23 ing distance education, such agency or association
24 shall, in addition to meeting the other requirements
25 of this subpart, demonstrate to the Secretary that—

1 “(i) the agency or association’s standards
2 effectively address the quality of an institution’s
3 distance education in the areas identified in sec-
4 tion 496(a)(5), except that the agency or asso-
5 ciation shall not be required to have separate
6 standards, procedures or policies for the evalua-
7 tion of distance education institutions or pro-
8 grams in order to meet the requirements of this
9 subparagraph; and

10 “(ii) the agency or association requires an
11 institution that offers distance education to
12 have processes through which the institution es-
13 tablishes that the student who registers in a
14 distance education course or program is the
15 same student who participates, completes and
16 receives the academic credit;”;

17 (B) in paragraph (5), by striking subpara-
18 graph (A) and inserting the following:

19 “(A) success with respect to student
20 achievement in relation to the institution’s mis-
21 sion, including—

22 “(i) consideration of student academic
23 achievement as determined by the institu-
24 tion;

25 “(ii) student retention;

1 “(iii) course and program completion;

2 “(iv) as appropriate, State licensing
3 examinations;

4 “(v) as appropriate, job placement
5 rates or enrollment in graduate or profes-
6 sional programs; and

7 “(vi) as appropriate, other student
8 performance information selected by the
9 institution, particularly that information
10 used by the institution to evaluate or
11 strengthen its programs;”;

12 (C) by striking paragraph (6) and insert-
13 ing the following:

14 “(6) such an agency or association shall estab-
15 lish and apply review procedures throughout the ac-
16 crediting process, including evaluation and with-
17 drawal proceedings which comply with due process
18 procedures that provide for—

19 “(A) adequate specification of require-
20 ments and deficiencies at the institution of
21 higher education or program examined;

22 “(B) an opportunity for a written response
23 by any such institution to be included, prior to
24 final action, in the evaluation and withdrawal
25 proceedings;

1 “(C) upon the written request of an insti-
2 tution, an opportunity for the institution to ap-
3 peal any adverse action, including denial, with-
4 drawal, suspension, or termination of accredita-
5 tion, or placement on probation of an institu-
6 tion, at a hearing prior to such action becoming
7 final, before an appeals panel that—

8 “(i) shall not include current members
9 of the agency or association’s underlying
10 decision-making body that made the ad-
11 verse decision; and

12 “(ii) is subject to a conflict of interest
13 policy; and

14 “(D) the right to representation by counsel
15 for such an institution during an appeal of the
16 adverse action;” and

17 (D) by striking paragraph (8) and insert-
18 ing the following:

19 “(8) such agency or association shall make
20 available to the public and the State licensing or au-
21 thorizing agency, and submit to the Secretary, a
22 summary of agency or association actions, includ-
23 ing—

24 “(A) the award of accreditation or re-
25 accreditation of an institution;

1 “(B) final denial, withdrawal, suspension,
2 or termination of accreditation, or placement on
3 probation of an institution, and any findings
4 made in connection with the action taken, to-
5 gether with the official comments of the af-
6 fected institution; and

7 “(C) any other adverse action taken with
8 respect to an institution.”; and

9 (2) in subsection (c)—

10 (A) in paragraph (1), by inserting “, in-
11 cluding those regarding distance education”
12 after “their responsibilities”;

13 (B) by redesignating paragraphs (2)
14 through (6) as paragraphs (5) through (9);

15 (C) by inserting after paragraph (1) (as
16 amended by subparagraph (A)) the following:

17 “(2) ensures that the agency or association’s
18 on-site evaluation for accreditation or reaccreditation
19 includes review of the Federally required information
20 the institution or program provides its current and
21 prospective students;

22 “(3) monitors the growth of programs at insti-
23 tutions that are experiencing significant enrollment
24 growth;

1 “(4) requires an institution to submit a teach-
2 out plan for approval to the accrediting agency upon
3 the occurrence of any of the following events:

4 “(A) The Department notifies the accred-
5 iting agency of an action against the institution
6 pursuant to section 487(d).

7 “(B) The accrediting agency acts to with-
8 draw, terminate, or suspend the accreditation of
9 an institution.

10 “(C) The institution notifies the accred-
11 iting agency that the institution intends to
12 cease operations.”;

13 (D) in paragraph (8) (as redesignated by
14 subparagraph (B)), by striking “and” after the
15 semicolon;

16 (E) in subparagraph (9) (as redesignated
17 by subparagraph (B)), by striking the period
18 and inserting “; and”; and

19 (F) by adding at the end the following:

20 “(10) confirms, as a part of the agency or asso-
21 ciation’s review for accreditation or reaccreditation,
22 that the institution has transfer of credit policies—

23 “(A) that are publicly disclosed;

24 “(B) that do not deny transfer of credit
25 based solely on the accreditation of the sending

1 institution, if the agency or association accred-
 2 iting the sending institution is recognized by
 3 the Secretary pursuant to this section; and

4 “(C) in which acceptance or denial of
 5 transfer of credit is decided according to cri-
 6 teria established in guidelines developed by the
 7 institution’s admissions committee.”.

8 **SEC. 7452. ADMINISTRATIVE CAPACITY STANDARD.**

9 Section 498 (20 U.S.C. 1099c) is amended—

10 (1) in subsection (d)(1)(B), by inserting “and”
 11 after the semicolon; and

12 (2) by adding at the end the following:

13 “(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL
 14 LOCATIONS.—

15 “(1) IN GENERAL.—A location of a closed insti-
 16 tution of higher education shall be eligible as an ad-
 17 ditional location of an eligible institution of higher
 18 education, as defined pursuant to regulations of the
 19 Secretary, for the purposes of a teach-out, if such
 20 teach-out has been approved by the institution’s ac-
 21 crediting agency.

22 “(2) SPECIAL RULE.—An institution of higher
 23 education that conducts a teach-out through the es-
 24 tablishment of an additional location described in
 25 paragraph (1) shall be permitted to establish a per-

1 manent additional location at a closed institution
2 and shall not be required—

3 “(A) to meet the requirements of sections
4 102(b)(1)(E) and 102(c)(1)(C) for such addi-
5 tional location; or

6 “(B) to assume the liabilities of the closed
7 institution.”.

8 **SEC. 7453. PROGRAM REVIEW AND DATA.**

9 Section 498A(b) (20 U.S.C. 1099c–1(b)) is amend-
10 ed—

11 (1) in paragraph (4), by striking “and” after
12 the semicolon;

13 (2) in paragraph (5) by striking the period and
14 inserting a semicolon; and

15 (3) by adding at the end the following:

16 “(6) provide to an institution of higher edu-
17 cation an adequate opportunity to review and re-
18 spond to any program review report and relevant
19 materials related to the report before any final pro-
20 gram review is reached;

21 “(7) review and take into consideration an in-
22 stitution of higher education’s response in any final
23 program review; and

24 “(8) maintain and preserve at all times the con-
25 fidentiality of any program review report until the

1 requirements of paragraphs (6) and (7) are met, and
2 until a final program review is issued, other than to
3 the extent required to comply with paragraph (5),
4 except that the Secretary shall promptly disclose any
5 and all program review reports to the institution of
6 higher education under review.”.

7 **CHAPTER 6—DEVELOPING INSTITUTIONS**

8 **SEC. 7501. DEFINITIONS.**

9 Section 502(a) (20 U.S.C. 1101a(a)) is amended—

10 (1) in paragraph (5)—

11 (A) in subparagraph (A), by inserting
12 “and” after the semicolon;

13 (B) in subparagraph (B), by striking “;
14 and” and inserting a period; and

15 (C) by striking subparagraph (C); and

16 (2) by striking paragraph (7).

17 **SEC. 7502. AUTHORIZED ACTIVITIES.**

18 Section 503(b) (20 U.S.C. 1101b(b)) is amended—

19 (1) by redesignating paragraphs (6) through
20 (14) as paragraphs (8) through (16), respectively;

21 (2) in paragraph (5), by inserting “, including
22 innovative, customized remedial education and
23 English language instruction courses designed to
24 help retain students and move the students rapidly

1 into core courses and through program completion”
2 before the period at the end; and

3 (3) by inserting after paragraph (5) the fol-
4 lowing:

5 “(6) Education or counseling services designed
6 to improve the financial literacy and economic lit-
7 eracy of students or the students’ parents.

8 “(7) Articulation agreements and student sup-
9 port programs designed to facilitate the transfer
10 from 2-year to 4-year institutions.”.

11 **SEC. 7503. DURATION OF GRANT.**

12 Section 504(a) (20 U.S.C. 1101e(a)) is amended to
13 read as follows:

14 “(a) AWARD PERIOD.—The Secretary may award a
15 grant to a Hispanic-serving institution under this title for
16 5 years.”.

17 **SEC. 7504. POSTBACCALAUREATE OPPORTUNITIES FOR**
18 **HISPANIC AMERICANS.**

19 (a) ESTABLISHMENT OF PROGRAM.—Title V (20
20 U.S.C. 1101 et seq.) is amended—

21 (1) by redesignating part B as part C;

22 (2) by redesignating sections 511 through 518
23 as sections 521 through 528, respectively; and

24 (3) by inserting after section 505 the following:

1 **“PART B—PROMOTING POSTBACCALAUREATE**
2 **OPPORTUNITIES FOR HISPANIC AMERICANS**

3 **“SEC. 511. PROGRAM AUTHORITY AND ELIGIBILITY.**

4 “(a) PROGRAM AUTHORIZED.—Subject to the avail-
5 ability of funds appropriated to carry out this part, the
6 Secretary shall award grants, on a competitive basis, to
7 eligible institutions to enable the eligible institutions to
8 carry out the authorized activities described in section
9 512.

10 “(b) ELIGIBILITY.—For the purposes of this part, an
11 ‘eligible institution’ means an institution of higher edu-
12 cation that—

13 “(1) is a Hispanic-serving institution (as de-
14 fined in section 502); and

15 “(2) offers a postbaccalaureate certificate or de-
16 gree granting program.

17 **“SEC. 512. AUTHORIZED ACTIVITIES.**

18 “Grants awarded under this part shall be used for
19 1 or more of the following activities:

20 “(1) Purchase, rental, or lease of scientific or
21 laboratory equipment for educational purposes, in-
22 cluding instructional and research purposes.

23 “(2) Construction, maintenance, renovation,
24 and improvement in classroom, library, laboratory,
25 and other instructional facilities, including purchase

1 or rental of telecommunications technology equip-
2 ment or services.

3 “(3) Purchase of library books, periodicals,
4 technical and other scientific journals, microfilm,
5 microfiche, and other educational materials, includ-
6 ing telecommunications program materials.

7 “(4) Support for needy postbaccalaureate stu-
8 dents, including outreach, academic support services,
9 mentoring, scholarships, fellowships, and other fi-
10 nancial assistance, to permit the enrollment of such
11 students in postbaccalaureate certificate and degree
12 granting programs.

13 “(5) Support of faculty exchanges, faculty de-
14 velopment, faculty research, curriculum development,
15 and academic instruction.

16 “(6) Creating or improving facilities for Inter-
17 net or other distance learning academic instruction
18 capabilities, including purchase or rental of tele-
19 communications technology equipment or services.

20 “(7) Collaboration with other institutions of
21 higher education to expand postbaccalaureate certifi-
22 cate and degree offerings.

23 “(8) Other activities proposed in the application
24 submitted pursuant to section 513 that are approved

1 by the Secretary as part of the review and accept-
2 ance of such application.

3 **“SEC. 513. APPLICATION AND DURATION.**

4 “(a) APPLICATION.—Any eligible institution may
5 apply for a grant under this part by submitting an applica-
6 tion to the Secretary at such time and in such manner
7 as the Secretary may require. Such application shall dem-
8 onstrate how the grant funds will be used to improve
9 postbaccalaureate education opportunities for Hispanic
10 and low-income students and will lead to such students’
11 greater financial independence.

12 “(b) DURATION.—Grants under this part shall be
13 awarded for a period not to exceed 5 years.

14 “(c) LIMITATION.—The Secretary may not award
15 more than 1 grant under this part in any fiscal year to
16 any Hispanic-serving institution.”.

17 **SEC. 7505. APPLICATIONS.**

18 Section 521(b)(1)(A) (as redesignated by section
19 7504(a)(2)) (20 U.S.C. 1103(b)(1)(A)) is amended by
20 striking “subsection (b)” and inserting “subsection (c)”.

21 **SEC. 7506. COOPERATIVE ARRANGEMENTS.**

22 Section 524(a) (as redesignated by section
23 7504(a)(2)) (20 U.S.C. 1103c(a)) is amended by striking
24 “section 503” and inserting “sections 503 and 512”.

1 **SEC. 7507. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 528(a) (as redesignated by section
3 7504(a)(2)) (20 U.S.C. 1103g(a)) is amended—

4 (1) by inserting “part A of” after “carry out”;

5 (2) by striking “\$62,500,000 for fiscal year
6 1999” and all that follows through the period and
7 inserting “such sums as may be necessary for fiscal
8 year 2006 and each of the 5 succeeding fiscal
9 years.”;

10 (3) by striking “(a) AUTHORIZATIONS.—There
11 are” and inserting the following:

12 “(a) AUTHORIZATIONS.—

13 “(1) PART A.—There are”; and

14 (4) by adding at the end the following:

15 “(2) PART B.—There are authorized to be ap-
16 propriated to carry out part B of this title such
17 sums as may be necessary for fiscal year 2006 and
18 each of the 5 succeeding fiscal years.”.

19 **CHAPTER 7—INTERNATIONAL EDUCATION**
20 **PROGRAMS**

21 **SEC. 7601. FINDINGS.**

22 Section 601 (20 U.S.C. 1121) is amended—

23 (1) in the section heading, by striking “**AND**
24 **PURPOSES**” and inserting “; **PURPOSES; CON-**
25 **SULTATION; SURVEY**”

1 (2) in subsection (a)(3), by striking “post-Cold
2 War”;

3 (3) in subsection (b)(1)(D), by inserting “, in-
4 cluding through linkages with overseas institutions”
5 before the semicolon; and

6 (4) by adding at the end the following:

7 “(c) CONSULTATION.—The Secretary shall, prior to
8 requesting applications for funding under this title during
9 each grant cycle, consult with and receive recommenda-
10 tions regarding national need for expertise in foreign lan-
11 guages and world regions from the head official, or a des-
12 ignee of such head official, of the National Security Coun-
13 cil, the Department of Homeland Security, the Depart-
14 ment of Defense, the Department of State, the Federal
15 Bureau of Investigation, the Department of Labor, and
16 the Department of Commerce, the Director of National
17 Intelligence, and other relevant agencies. These entities
18 shall provide information to the Secretary regarding how
19 the entities utilize expertise and resources provided by
20 grantees under this title. The Secretary shall take into ac-
21 count such recommendations and information when re-
22 questing applications for funding under this title, and
23 shall make available to applicants a list of areas identified
24 as areas of national need.

1 “(d) SURVEY.—The Secretary shall assist grantees in
 2 developing a survey to administer to students who have
 3 participated in programs under this title to determine
 4 postparticipation placement. All grantees, where applica-
 5 ble, shall administer such survey not less often than annu-
 6 ally and report such data to the Secretary.”.

7 **SEC. 7602. GRADUATE AND UNDERGRADUATE LANGUAGE**
 8 **AND AREA CENTERS AND PROGRAMS.**

9 Section 602 (20 U.S.C. 1122) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (2)—

12 (i) in subparagraph (G), by striking
 13 “and” after the semicolon;

14 (ii) in subparagraph (H), by striking
 15 the period and inserting “; and”; and

16 (iii) by adding at the end the fol-
 17 lowing:

18 “(I) support for instructors of the less
 19 commonly taught languages.”; and

20 (B) in paragraph (4)—

21 (i) by redesignating subparagraphs
 22 (C) through (E) as subparagraphs (D)
 23 through (F), respectively;

24 (ii) by inserting after subparagraph
 25 (B) the following:

1 “(C) Programs of linkage or outreach be-
2 tween or among—

3 “(i) foreign language, area studies, or
4 other international fields; and

5 “(ii) State educational agencies or
6 local educational agencies.”; and

7 (iii) in subparagraph (F) (as redesig-
8 nated by clause (i)), by striking “and (D)”
9 and inserting “(D), and (E)”;

10 (2) in subsection (b)—

11 (A) in the subsection heading, by striking
12 “GRADUATE”; and

13 (B) by striking paragraph (2) and insert-
14 ing the following:

15 “(2) ELIGIBLE STUDENTS.—A student receiv-
16 ing a stipend described in paragraph (1) shall be en-
17 gaged—

18 “(A) in an instructional program with stat-
19 ed performance goals for functional foreign lan-
20 guage use or in a program developing such per-
21 formance goals, in combination with area stud-
22 ies, international studies, or the international
23 aspects of a professional studies program; and

1 “(B)(i) in the case of an undergraduate
2 student, in the intermediate or advanced study
3 of a less commonly taught language; or

4 “(ii) in the case of a graduate student, in
5 graduate study in connection with a program
6 described in subparagraph (A), including—

7 “(I) predissertation level study;

8 “(II) preparation for dissertation re-
9 search;

10 “(III) dissertation research abroad; or

11 “(IV) dissertation writing.”;

12 (3) by striking subsection (d) and inserting the
13 following:

14 “(d) ALLOWANCES.—

15 “(1) GRADUATE LEVEL RECIPIENTS.—A sti-
16 pend awarded to a graduate level recipient may in-
17 clude allowances for dependents and for travel for
18 research and study in the United States and abroad.

19 “(2) UNDERGRADUATE LEVEL RECIPIENTS.—A
20 stipend awarded to an undergraduate level recipient
21 may include an allowance for educational programs
22 in the United States or educational programs abroad
23 that—

24 “(A) are closely linked to the overall goals
25 of the recipient’s course of study; and

1 “(B) have the purpose of promoting for-
2 eign language fluency and knowledge of foreign
3 cultures.”; and

4 (4) by adding at the end the following:

5 “(e) APPLICATION.—Each institution or combination
6 of institutions desiring a grant under this section shall
7 submit an application to the Secretary at such time, in
8 such manner, and accompanied by such information and
9 assurances as the Secretary may require. Each application
10 shall include an explanation of how the activities funded
11 by the grant will reflect diverse perspectives and a wide
12 range of views and generate debate on world regions and
13 international affairs. Each application shall also describe
14 how the applicant will address disputes regarding whether
15 activities funded under the application reflect diverse per-
16 spectives and a wide range of views. Each application shall
17 also include a description of how the applicant will encour-
18 age government service in areas of national need as identi-
19 fied by the Secretary.”.

20 **SEC. 7603. UNDERGRADUATE INTERNATIONAL STUDIES**
21 **AND FOREIGN LANGUAGE PROGRAMS.**

22 Section 604 (20 U.S.C. 1124) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (2)—

1 (i) by redesignating subparagraphs (I)
2 through (M) as subparagraphs (J) through
3 (N), respectively; and

4 (ii) by inserting after subparagraph
5 (H) the following:

6 “(I) providing subgrants to undergraduate
7 students for educational programs abroad
8 that—

9 “(i) are closely linked to the overall
10 goals of the program for which the grant
11 is awarded; and

12 “(ii) have the purpose of promoting
13 foreign language fluency and knowledge of
14 foreign cultures;”; and

15 (B) in paragraph (7)—

16 (i) in subparagraph (C), by striking
17 “and” after the semicolon;

18 (ii) in subparagraph (D), by striking
19 the period at the end and inserting a semi-
20 colon; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(E) an explanation of how the activities
24 funded by the grant will reflect diverse perspec-
25 tives and a wide range of views and generate

1 debate on world regions and international af-
2 fairs, where applicable;

3 “(F) a description of how the applicant
4 will address disputes regarding whether the ac-
5 tivities funded under the application reflect di-
6 verse perspectives and a wide range of views;
7 and

8 “(G) a description of how the applicant
9 will encourage government service in areas of
10 national need as identified by the Secretary.”;
11 and

12 (2) in subsection (c)—

13 (A) by striking “FUNDING SUPPORT.—The
14 Secretary” and inserting “FUNDING RULES.—
15 “(1) THE SECRETARY.—The Secretary”;

16 (B) by striking “10” and inserting “20”;
17 and

18 (C) by adding at the end the following:

19 “(2) GRANTEES.—Of the total amount of grant
20 funds awarded to a grantee under this section, the
21 grantee may use not more than 10 percent of such
22 funds for the activity described in subsection
23 (a)(2)(I).”.

24 **SEC. 7604. RESEARCH; STUDIES.**

25 Section 605(a) (20 U.S.C. 1125(a)) is amended—

1 (1) in paragraph (8), by striking “and” after
2 the semicolon;

3 (2) in paragraph (9), by striking the period and
4 inserting a semicolon; and

5 (3) by adding at the end the following:

6 “(10) evaluation of the extent to which pro-
7 grams assisted under this title reflect diverse per-
8 spectives and a wide range of views and generate de-
9 bate on world regions and international affairs;

10 “(11) the systematic collection, analysis, and
11 dissemination of data that contribute to achieving
12 the purposes of this part; and

13 “(12) support for programs or activities to
14 make data collected, analyzed, or disseminated under
15 this section publicly available and easy to under-
16 stand.”.

17 **SEC. 7605. TECHNOLOGICAL INNOVATION AND COOPERA-**
18 **TION FOR FOREIGN INFORMATION ACCESS.**

19 Section 606 (20 U.S.C. 1126) is amended—

20 (1) in subsection (a)—

21 (A) by striking “new electronic tech-
22 nologies” and insert “electronic technologies”;

23 (B) by inserting “from foreign sources”
24 after “disseminate information”;

1 (C) by striking “AUTHORITY.—The Sec-
2 retary” and insert “AUTHORITY.—

3 “(1) IN GENERAL.—The Secretary”; and

4 (D) by adding at the end the following:

5 “(2) PARTNERSHIPS WITH NOT-FOR-PROFIT
6 EDUCATIONAL ORGANIZATIONS.—The Secretary may
7 award grants under this section to carry out the ac-
8 tivities authorized under this section to the fol-
9 lowing:

10 “(A) An institution of higher education.

11 “(B) A public or nonprofit private library.

12 “(C) A consortium of an institution of
13 higher education and 1 or more of the fol-
14 lowing:

15 “(i) Another institution of higher edu-
16 cation.

17 “(ii) A library.

18 “(iii) A not-for-profit educational or-
19 ganization.”;

20 (2) in subsection (b)—

21 (A) in paragraph (1), by striking “to facili-
22 tate access to” and inserting “to acquire, facili-
23 tate access to,”;

24 (B) in paragraph (2), by inserting “or
25 standards for” after “means of”;

1 (C) in paragraph (6), by striking “and”
2 after the semicolon;

3 (D) in paragraph (7), by striking the pe-
4 riod and inserting a semicolon; and

5 (E) by adding at the end the following:

6 “(8) to establish linkages to facilitate carrying
7 out the activities described in this subsection be-
8 tween—

9 “(A) the institutions of higher education,
10 libraries, and consortia receiving grants under
11 this section; and

12 “(B) institutions of higher education, not-
13 for-profit educational organizations, and librar-
14 ies overseas; and

15 “(9) to carry out other activities that the Sec-
16 retary determines are consistent with the purpose of
17 the grants or contracts awarded under this section.”;
18 and

19 (3) in subsection (e), by striking “institution or
20 consortium” and inserting “institution of higher
21 education, library, or consortium”.

22 **SEC. 7606. SELECTION OF CERTAIN GRANT RECIPIENTS.**

23 Section 607 (20 U.S.C. 1127) is amended—

24 (1) in subsection (a), by striking “evaluates the
25 applications for comprehensive and undergraduate

1 language and area centers and programs.” and in-
2 serting “evaluates—

3 “(1) the applications for comprehensive foreign
4 language and area or international studies centers
5 and programs; and

6 “(2) the applications for undergraduate foreign
7 language and area or international studies centers
8 and programs.”; and

9 (2) in subsection (b), by adding at the end the
10 following: “The Secretary shall also consider an ap-
11 plicant’s record of sending students into public serv-
12 ice and an applicant’s stated efforts to increase the
13 number of students that go into public service.”.

14 **SEC. 7607. AMERICAN OVERSEAS RESEARCH CENTERS.**

15 Section 609 (20 U.S.C. 1128a) is amended by adding
16 at the end the following:

17 “(e) APPLICATION.—Each center desiring a grant
18 under this section shall submit an application to the Sec-
19 retary at such time, in such manner, and accompanied by
20 such information and assurances as the Secretary may re-
21 quire. Each application shall include how the activities
22 funded by the grant will reflect diverse perspectives and
23 a wide range of views and generate debate on world re-
24 gions and international affairs, where applicable. Each ap-
25 plication shall also describe how the applicant will address

1 disputes regarding whether the activities funded under the
2 application reflect diverse perspectives and a wide range
3 of views.”.

4 **SEC. 7608. AUTHORIZATION OF APPROPRIATIONS FOR**
5 **INTERNATIONAL AND FOREIGN LANGUAGE**
6 **STUDIES.**

7 Section 610 (20 U.S.C. 1128b) is amended by strik-
8 ing “\$80,000,000 for fiscal year 1999” and all that fol-
9 lows through the period and inserting “such sums as may
10 be necessary for fiscal year 2006 and each of the 5 suc-
11 ceeding fiscal years.”.

12 **SEC. 7609. CENTERS FOR INTERNATIONAL BUSINESS EDU-**
13 **CATION.**

14 Section 612(f) (20 U.S.C. 1130–1(f)) is amended—

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

17 (2) in paragraph (4), by striking the period at
18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(5) assurances that activities funded by the
21 grant will reflect diverse perspectives and a wide
22 range of views and generate debate on world regions
23 and international affairs, where applicable.”.

1 **SEC. 7610. EDUCATION AND TRAINING PROGRAMS.**

2 Section 613(c) (20 U.S.C. 1130a(c)) is amended by
3 adding at the end the following: “Each such application
4 shall include an assurance that, where applicable, the ac-
5 tivities funded by the grant will reflect diverse perspectives
6 and a wide range of views on world regions and inter-
7 national affairs.”.

8 **SEC. 7611. AUTHORIZATION OF APPROPRIATIONS FOR**
9 **BUSINESS AND INTERNATIONAL EDUCATION**
10 **PROGRAMS.**

11 Section 614 (20 U.S.C. 1130b) is amended—

12 (1) in subsection (a), by striking “\$11,000,000
13 for fiscal year 1999” and all that follows through
14 “fiscal years” and inserting “such sums as may be
15 necessary for fiscal year 2006 and each of the 5 suc-
16 ceeding fiscal years”; and

17 (2) in subsection (b), by striking “\$7,000,000
18 for fiscal year 1999” and all that follows through
19 “fiscal years,” and inserting “such sums as may be
20 necessary for fiscal year 2006 and each of the 5 suc-
21 ceeding fiscal years”.

22 **SEC. 7612. MINORITY FOREIGN SERVICE PROFESSIONAL**
23 **DEVELOPMENT PROGRAM.**

24 Section 621 (20 U.S.C. 1131) is amended—

25 (1) in subsection (c), by adding at the end the
26 following: “Each application shall include a descrip-

1 tion of how the activities funded by the grant will re-
 2 flect diverse perspectives and a wide range of views
 3 on world regions and international affairs, where ap-
 4 plicable.”; and

5 (2) in subsection (e)—

6 (A) by striking “MATCH REQUIRED.—The
 7 eligible” and inserting “MATCHING FUNDS.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
 9 the eligible”; and

10 (B) by adding at the end the following:

11 “(2) WAIVER.—The Secretary may waive the
 12 requirement of paragraph (1) for an eligible recipi-
 13 ent if the Secretary determines such waiver is appro-
 14 priate.”.

15 **SEC. 7613. INSTITUTIONAL DEVELOPMENT.**

16 Section 622 (20 U.S.C. 1131–1) is amended—

17 (1) in subsection (a)—

18 (A) by striking “Tribally Controlled Col-
 19 leges or Universities” and inserting “tribally
 20 controlled colleges or universities”; and

21 (B) by striking “international affairs pro-
 22 grams.” and inserting “international affairs,
 23 international business, and foreign language
 24 study programs, including the teaching of for-
 25 eign languages, at such colleges, universities,

1 and institutions, respectively, through increased
2 collaboration with institutions of higher edu-
3 cation that receive funding under this title.”;

4 and

5 (2) in subsection (c)—

6 (A) by striking paragraphs (1) and (3);

7 and

8 (B) by redesignating paragraphs (2) and

9 (4) as paragraphs (1) and (2), respectively.

10 **SEC. 7614. STUDY ABROAD PROGRAM.**

11 Section 623(a) (20 U.S.C. 1131a(a)) is amended—

12 (1) by striking “as defined in section 322 of
13 this Act”; and

14 (2) by striking “tribally controlled Indian com-
15 munity colleges as defined in the Tribally Controlled
16 Community College Assistance Act of 1978” and in-
17 serting “tribally controlled colleges or universities”.

18 **SEC. 7615. ADVANCED DEGREE IN INTERNATIONAL RELA-**

19 **TIONS.**

20 Section 624 (20 U.S.C. 1131b) is amended—

21 (1) in the section heading, by striking “**MAS-**
22 **TERS**” and inserting “**ADVANCED**”;

23 (2) in the first sentence, by inserting “, and in
24 exceptional circumstances, a doctoral degree,” after
25 “masters degree”;

1 (3) in the second sentence, by striking “masters
2 degree” and inserting “advanced degree”; and

3 (4) in the fourth sentence, by striking “United
4 States” and inserting “United States.”.

5 **SEC. 7616. INTERNSHIPS.**

6 Section 625 (20 U.S.C. 1131c) is amended—

7 (1) in subsection (a)—

8 (A) by striking “as defined in section 322
9 of this Act”;

10 (B) by striking “tribally controlled Indian
11 community colleges as defined in the Tribally
12 Controlled Community College Assistance Act
13 of 1978” and inserting “tribally controlled col-
14 leges or universities”;

15 (C) by striking “an international” and in-
16 serting “international,”; and

17 (D) by striking “the United States Infor-
18 mation Agency” and inserting “the Department
19 of State”; and

20 (2) in subsection (c)(1)—

21 (A) in subparagraph (E), by inserting
22 “and” after the semicolon;

23 (B) in subparagraph (F), by striking “;
24 and” and inserting a period; and

25 (C) by striking subparagraph (G).

1 **SEC. 7617. FINANCIAL ASSISTANCE.**

2 Part C of title VI (20 U.S.C. 1131 et seq.) is further
3 amended—

4 (1) by redesignating sections 626, 627, and 628
5 as sections 627, 628, and 629, respectively; and

6 (2) by inserting after section 625 the following:

7 **“SEC. 626. FINANCIAL ASSISTANCE.**

8 “(a) **AUTHORITY.**—The Institute may provide finan-
9 cial assistance, in the form of summer stipends described
10 in subsection (b) and Ralph Bunche scholarship assistance
11 described in subsection (c), to needy students to facilitate
12 the participation of the students in the Institute’s pro-
13 grams under this part.

14 “(b) **SUMMER STIPENDS.**—

15 “(1) **REQUIREMENTS.**—A student receiving a
16 summer stipend under this section shall use such sti-
17 pend to defray the student’s cost of participation in
18 a summer institute program funded under this part,
19 including the costs of travel, living, and educational
20 expenses necessary for the student’s participation in
21 such program.

22 “(2) **AMOUNT.**—A summer stipend awarded to
23 a student under this section shall not exceed \$3,000
24 per summer.

25 “(c) **RALPH BUNCHE SCHOLARSHIP.**—

1 “(1) REQUIREMENTS.—A student receiving a
2 Ralph Bunche scholarship under this section—

3 “(A) shall be a full-time student at an in-
4 stitution of higher education who is accepted
5 into a program funded under this part; and

6 “(B) shall use such scholarship to pay
7 costs related to the cost of attendance, as de-
8 fined in section 472, at the institution of higher
9 education in which the student is enrolled.

10 “(2) AMOUNT AND DURATION.—A Ralph
11 Bunche scholarship awarded to a student under this
12 section shall not exceed \$5,000 per academic year.”.

13 **SEC. 7618. REPORT.**

14 Section 627 (as redesignated by section 7617(1)) (20
15 U.S.C. 1131d) is amended by striking “annually” and in-
16 serting “biennially”.

17 **SEC. 7619. GIFTS AND DONATIONS.**

18 Section 628 (as redesignated by section 7617(1)) (20
19 U.S.C. 1131e) is amended by striking “annual report de-
20 scribed in section 626” and inserting “biennial report de-
21 scribed in section 627”.

1 **SEC. 7620. AUTHORIZATION OF APPROPRIATIONS FOR THE**
2 **INSTITUTE FOR INTERNATIONAL PUBLIC**
3 **POLICY.**

4 Section 629 (as redesignated by section 7617(1)) (20
5 U.S.C. 1131f) is amended by striking “\$10,000,000 for
6 fiscal year 1999” and all that follows through the period
7 and inserting “such sums as may be necessary for fiscal
8 year 2006 and each of the 5 succeeding fiscal years.”.

9 **SEC. 7621. DEFINITIONS.**

10 Section 631 (20 U.S.C. 1132) is amended—

11 (1) by redesignating paragraphs (2), (3), (4),
12 (5), (6), (7), (8), and (9), as paragraphs (8), (5),
13 (9), (2), (11), (3), (7), and (4), respectively;

14 (2) in paragraph (2), as redesignated by para-
15 graph (1), by striking “comprehensive language and
16 area center” and inserting “comprehensive foreign
17 language and area or international studies center”;

18 (3) in paragraph (11), as redesignated by para-
19 graph (1), by striking “undergraduate language and
20 area center” and inserting “undergraduate foreign
21 language and area or international studies center”;

22 (4) in paragraph (3), as redesignated by para-
23 graph (1), by striking the first occurrence of the
24 term “critical languages” and inserting “critical for-
25 eign languages”;

1 (5) in paragraph (7), as redesignated by para-
2 graph (1), by striking “and” after the semicolon;

3 (6) in paragraph (4), as redesignated by para-
4 graph (1), by striking the period at the end and in-
5 serting a semicolon;

6 (7) by inserting after paragraph (5), as redesign-
7 nated by paragraph (1), the following:

8 “(6) the term ‘historically Black college and
9 university’ has the meaning given the term ‘part B
10 institution’ in section 322;” and

11 (8) by inserting after paragraph (9), as redesign-
12 nated by paragraph (1), the following:

13 “(10) the term ‘tribally controlled college or
14 university’ has the meaning given the term in sec-
15 tion 2 of the Tribally Controlled College or Univer-
16 sity Assistance Act of 1978 (25 U.S.C. 1801); and”.

17 **SEC. 7622. ASSESSMENT AND ENFORCEMENT.**

18 Part D of title VI (20 U.S.C. 1132) is amended by
19 adding at the end the following:

20 **“SEC. 632. ASSESSMENT; ENFORCEMENT; RULE OF CON-**
21 **STRUCTION.**

22 “(a) IN GENERAL.—The Secretary is authorized to
23 assess and ensure compliance with all the conditions and
24 terms of grants provided under this title. If a complaint
25 regarding activities funded under this title is not resolved

1 under the process outlined in the relevant grantee’s appli-
2 cation, and such complaint is filed with the Department,
3 the Secretary shall be notified, and is authorized, when
4 circumstances warrant, to immediately suspend future
5 funding for the grant pending resolution of such dispute.
6 Such resolution shall not exceed 60 days. The Secretary
7 shall take the outcomes of such complaints into account
8 when determining the renewal of grants.

9 “(b) **RULE OF CONSTRUCTION.**—Nothing in this title
10 shall be construed to authorize the Secretary to mandate,
11 direct, or control an institution of higher education’s spe-
12 cific instructional content, curriculum, or program of in-
13 struction.

14 **“SEC. 633. EVALUATION, OUTREACH, AND INFORMATION.**

15 “The Secretary may use not more than 1 percent of
16 the funds made available under this title to carry out pro-
17 gram evaluation, national outreach, and information dis-
18 semination activities relating to the programs authorized
19 under this title.”.

20 **CHAPTER 8—GRADUATE AND POSTSEC-**
21 **ONDARY IMPROVEMENT PROGRAMS**

22 **SEC. 7701. PURPOSE.**

23 Section 700(1)(B)(i) (20 U.S.C. 1133(1)(B)(i)) is
24 amended by inserting “, including those areas critical to
25 United States national and homeland security needs such

1 as mathematics, science, and engineering” before the
2 semicolon at the end.

3 **SEC. 7702. ALLOCATION OF JACOB K. JAVITS FELLOW-**
4 **SHIPS.**

5 Section 702(a)(1) (20 U.S.C. 1134a(a)(1)) is amend-
6 ed to read as follows:

7 “(1) APPOINTMENT.—

8 “(A) IN GENERAL.—The Secretary shall
9 appoint a Jacob K. Javits Fellows Program
10 Fellowship Board (referred to in this subpart as
11 the ‘Board’) consisting of 9 individuals rep-
12 resentative of both public and private institu-
13 tions of higher education who are especially
14 qualified to serve on the Board.

15 “(B) QUALIFICATIONS.—In making ap-
16 pointments under subparagraph (A), the Sec-
17 retary shall—

18 “(i) give due consideration to the ap-
19 pointment of individuals who are highly re-
20 spected in the academic community;

21 “(ii) assure that individuals appointed
22 to the Board are broadly representative of
23 a range of disciplines in graduate edu-
24 cation in arts, humanities, and social
25 sciences;

1 tional Science Foundation, the Department of Defense,
2 the Department of Homeland Security, the National Acad-
3 emy of Sciences, and the Bureau of Labor Statistics, the
4 Secretary shall designate areas of national need. In mak-
5 ing such designations, the Secretary shall take into consid-
6 eration—

7 “(1) the extent to which the interest in the area
8 is compelling;

9 “(2) the extent to which other Federal pro-
10 grams support postbaccalaureate study in the area
11 concerned;

12 “(3) an assessment of how the program may
13 achieve the most significant impact with available re-
14 sources; and

15 “(4) an assessment of current and future pro-
16 fessional workforce needs of the United States.”.

17 **SEC. 7706. AWARDS TO GRADUATE STUDENTS.**

18 Section 714 (20 U.S.C. 1135c) is amended—

19 (1) in subsection (b)—

20 (A) by striking “1999–2000” and inserting
21 “2006–2007”; and

22 (B) by striking “graduate fellowships” and
23 inserting “Graduate Research Fellowship Pro-
24 gram”; and

25 (2) in subsection (c)—

1 (A) by striking “716(a)” and inserting
2 “715(a)”;

3 (B) by striking “714(b)(2)” and inserting
4 “713(b)(2)”.

5 **SEC. 7707. ADDITIONAL ASSISTANCE FOR COST OF EDU-**
6 **CATION.**

7 Section 715(a)(1) (20 U.S.C. 1135d(a)(1)) is amend-
8 ed—

9 (1) by striking “1999–2000” and inserting
10 “2006–2007”;

11 (2) by striking “1998–1999” and inserting
12 “2005–2006”.

13 **SEC. 7708. AUTHORIZATION OF APPROPRIATIONS FOR THE**
14 **GRADUATE ASSISTANCE IN AREAS OF NA-**
15 **TIONAL NEED PROGRAM.**

16 Section 716 (20 U.S.C. 1135e) is amended by strik-
17 ing “\$35,000,000 for fiscal year 1999” and all that fol-
18 lows through the period and inserting “such sums as may
19 be necessary for fiscal year 2006 and each of the 5 suc-
20 ceeding fiscal years to carry out this subpart.”.

21 **SEC. 7709. AUTHORIZATION OF APPROPRIATIONS FOR THE**
22 **THURGOOD MARSHALL LEGAL EDUCATIONAL**
23 **OPPORTUNITY PROGRAM.**

24 Section 721(h) (20 U.S.C. 1136(h)) is amended by
25 striking “\$5,000,000 for fiscal year 1999” and all that

1 follows through the period and inserting “such sums as
2 may be necessary for fiscal year 2006 and each of the 5
3 succeeding fiscal years.”.

4 **SEC. 7710. FUND FOR THE IMPROVEMENT OF POSTSEC-**
5 **ONDARY EDUCATION.**

6 Section 741(a) (20 U.S.C. 1138(a)) is amended—

7 (1) by striking paragraph (3) and inserting the
8 following:

9 “(3) the establishment and continuation of in-
10 stitutions, programs, consortia, collaborations, and
11 other joint efforts based on the technology of com-
12 munications, including those efforts that utilize dis-
13 tance education and technological advancements to
14 educate and train postsecondary students (including
15 health professionals serving medically underserved
16 populations);”;

17 (2) in paragraph (7), by striking “and” after
18 the semicolon;

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

21 (4) by adding at the end the following:

22 “(9) the introduction of reforms in remedial
23 education, including English language instruction, to
24 customize remedial courses to student goals and help

1 students progress rapidly from remedial courses into
2 core courses and through program completion;

3 “(10) the creation of consortia that join diverse
4 institutions of higher education for the purpose of
5 integrating curricular and co-curricular interdiscipli-
6 nary study; and

7 “(11) providing support and assistance to pro-
8 grams implementing integrated education reform
9 services in order to improve secondary school grad-
10 uation and college attendance and completion rates
11 for disadvantaged students.”.

12 **SEC. 7711. SPECIAL PROJECTS.**

13 Section 744(c) (20 U.S.C. 1138c) is amended to read
14 as follows:

15 “(c) AREAS OF NATIONAL NEED.—Areas of national
16 need shall include, at a minimum, the following:

17 “(1) Institutional restructuring to improve
18 learning and promote productivity, efficiency, quality
19 improvement, and cost and price control.

20 “(2) Improvements in academic instruction and
21 student learning, including efforts designed to assess
22 the learning gains made by postsecondary students.

23 “(3) Articulation between 2- and 4-year institu-
24 tions of higher education, including developing inno-
25 vative methods for ensuring the successful transfer

1 of students from 2- to 4-year institutions of higher
2 education.

3 “(4) Development, evaluation and dissemination
4 of model programs, including model core curricula
5 that—

6 “(A) provide students with a broad and in-
7 tegrated knowledge base;

8 “(B) include, at a minimum, broad survey
9 courses in English literature, American and
10 world history, American political institutions,
11 economics, philosophy, college-level mathe-
12 matics, and the natural sciences; and

13 “(C) include sufficient study of a foreign
14 language to lead to reading and writing com-
15 petency in the foreign language.

16 “(5) International cooperation and student ex-
17 changes among postsecondary educational institu-
18 tions.”.

19 **SEC. 7712. AUTHORIZATION OF APPROPRIATIONS FOR THE**
20 **FUND FOR THE IMPROVEMENT OF POSTSEC-**
21 **ONDARY EDUCATION.**

22 Section 745 (20 U.S.C. 1138d) is amended by strik-
23 ing “\$30,000,000 for fiscal year 1999” and all that fol-
24 lows through the period and inserting “such sums as may

1 be necessary for fiscal year 2006 and each of the 5 suc-
2 ceeding fiscal years.”.

3 **SEC. 7713. REPEAL OF THE URBAN COMMUNITY SERVICE**
4 **PROGRAM.**

5 Part C of title VII (20 U.S.C. 1139 et seq.) is re-
6 pealed.

7 **SEC. 7714. GRANTS AUTHORIZED FOR DEMONSTRATION**
8 **PROJECTS TO ENSURE STUDENTS WITH DIS-**
9 **ABILITIES RECEIVE A QUALITY HIGHER EDU-**
10 **CATION.**

11 Section 762 (20 U.S.C. 1140a) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2)—

14 (i) in subparagraph (A), by striking
15 “to teach students with disabilities” and
16 inserting “to teach and meet the academic
17 and programmatic needs of students with
18 disabilities in order to improve retention
19 and completion of postsecondary edu-
20 cation”;

21 (ii) by redesignating subparagraphs
22 (B) and (C) as subparagraphs (C) and
23 (F), respectively;

24 (iii) by inserting after subparagraph
25 (A) the following:

1 “(B) EFFECTIVE TRANSITION PRAC-
2 TICES.—The development of innovative and ef-
3 fective teaching methods and strategies to en-
4 sure the successful transition of students with
5 disabilities from secondary school to postsec-
6 ondary education.”;

7 (iv) in subparagraph (C), as redesign-
8 nated by clause (ii), by striking the period
9 at the end and inserting “, including data
10 on the postsecondary education of and im-
11 pact on subsequent employment of stu-
12 dents with disabilities. Such research, in-
13 formation, and data shall be made publicly
14 available and accessible.”;

15 (v) by inserting after subparagraph
16 (C), as redesignated by clause (ii), the fol-
17 lowing:

18 “(D) DISTANCE LEARNING.—The develop-
19 ment of innovative and effective teaching meth-
20 ods and strategies to provide faculty and ad-
21 ministrators with the ability to provide acces-
22 sible distance education programs or classes
23 that would enhance access of students with dis-
24 abilities to higher education, including the use

1 of accessible curriculum and electronic commu-
2 nication for instruction and advisement.

3 “(E) DISABILITY CAREER PATHWAYS.—
4 Training and providing support to secondary
5 and postsecondary staff to encourage interest
6 in, enhance awareness and understanding of,
7 provide educational opportunities in, teach prac-
8 tical skills related to, and offer work-based op-
9 portunities in, disability related fields, among
10 students, including students with disabilities.
11 Such training and support may include devel-
12 oping means to offer students credit-bearing,
13 college-level coursework, and career and edu-
14 cational counseling.”; and

15 (vi) by adding at the end the fol-
16 lowing:

17 “(G) ACCESSIBILITY OF EDUCATION.—
18 Making postsecondary education more acces-
19 sible to students with disabilities through cur-
20 riculum development.”; and

21 (B) in paragraph (3), by striking “sub-
22 paragraphs (A) through (C)” and inserting
23 “subparagraphs (A) through (G)”;
24 (2) by adding at the end the following:

1 “(d) REPORT.—The Secretary shall prepare and dis-
2 seminate a report reviewing the activities of the dem-
3 onstration projects authorized under this part and pro-
4 viding guidance and recommendations on how successful
5 projects can be replicated.”.

6 **SEC. 7715. APPLICATIONS FOR DEMONSTRATION PROJECTS**
7 **TO ENSURE STUDENTS WITH DISABILITIES**
8 **RECEIVE A QUALITY HIGHER EDUCATION.**

9 Section 763 (20 U.S.C. 1140b) is amended—

10 (1) by striking paragraph (1) and inserting the
11 following:

12 “(1) a description of how such institution plans
13 to address the activities allowed under this part;”;

14 (2) in paragraph (2), by striking “and” after
15 the semicolon;

16 (3) in paragraph (3), by striking the period at
17 the end and inserting “; and”; and

18 (4) by adding at the end the following:

19 “(4) a description of the extent to which the in-
20 stitution will work to replicate the research based
21 and best practices of institutions of higher education
22 with demonstrated success in serving students with
23 disabilities.”.

1 **SEC. 7716. AUTHORIZATION OF APPROPRIATIONS FOR THE**
 2 **DEMONSTRATION PROJECTS TO ENSURE**
 3 **STUDENTS WITH DISABILITIES RECEIVE A**
 4 **QUALITY HIGHER EDUCATION.**

5 Section 765 (20 U.S.C. 1140d) is amended by strik-
 6 ing “\$10,000,000 for fiscal year 1999” and all that fol-
 7 lows through the period and inserting “such sums as may
 8 be necessary for fiscal year 2006 and each of the 5 suc-
 9 ceeding fiscal years.”.

10 **CHAPTER 9—MISCELLANEOUS**

11 **SEC. 7801. MISCELLANEOUS.**

12 The Act (20 U.S.C. 1001 et seq.) is amended by add-
 13 ing at the end the following:

14 **“TITLE VIII—MISCELLANEOUS**

15 **“PART A—MATHEMATICS AND SCIENCE**

16 **SCHOLARS PROGRAM**

17 **“SEC. 811. MATHEMATICS AND SCIENCE SCHOLARS PRO-**
 18 **GRAM.**

19 “(a) PROGRAM AUTHORIZED.—The Secretary is au-
 20 thorized to award grants to States, on a competitive basis,
 21 to enable the States to award eligible students, who com-
 22 plete a rigorous secondary school curriculum in mathe-
 23 matics and science, scholarships for undergraduate study.

24 “(b) ELIGIBLE STUDENTS.—A student is eligible for
 25 a scholarship under this section if the student is a full-
 26 time undergraduate student in the student’s first and sec-

1 ond year of study who has completed a rigorous secondary
2 school curriculum in mathematics and science.

3 “(c) RIGOROUS CURRICULUM.—Each participating
4 State shall determine the requirements for a rigorous sec-
5 ondary school curriculum in mathematics and science de-
6 scribed in subsection (b).

7 “(d) PRIORITY FOR SCHOLARSHIPS.—The Governor
8 of a State may set a priority for awarding scholarships
9 under this section for particular eligible students, such as
10 students attending schools in high-need areas, students
11 who are from groups underrepresented in the fields of
12 mathematics, science, and engineering, students served by
13 local educational agencies that do not meet or exceed State
14 standards in mathematics and science, or students with
15 regional or geographic needs as determined appropriate by
16 the Governor.

17 “(e) AMOUNT AND DURATION OF SCHOLARSHIP.—
18 The Secretary shall award a grant under this section—

19 “(1) in an amount that does not exceed \$1,000;
20 and

21 “(2) for not more than 2 years of under-
22 graduate study.

23 “(f) MATCHING REQUIREMENT.—In order to receive
24 a grant under this section, a State shall provide matching
25 funds for the scholarships awarded under this section in

1 an amount equal to 50 percent of the Federal funds re-
2 ceived.

3 “(g) AUTHORIZATION.—There are authorized to be
4 appropriated to carry out this section such sums as may
5 be necessary for fiscal year 2006 and each of the 5 suc-
6 ceeding fiscal years.

7 **“PART B—POSTSECONDARY EDUCATION**
8 **ASSESSMENT**

9 **“SEC. 821. POSTSECONDARY EDUCATION ASSESSMENT.**

10 “(a) CONTRACT FOR ASSESSMENT.—The Secretary
11 shall enter into a contract, with an independent, bipartisan
12 organization with specific expertise in public administra-
13 tion and financial management, to carry out an inde-
14 pendent assessment of the cost factors associated with the
15 cost of tuition at institutions of higher education.

16 “(b) TIMEFRAME.—The Secretary shall enter into
17 the contract described in subsection (a) not later than 90
18 days after the date of enactment of the Higher Education
19 Amendments of 2005.

20 “(c) MATTERS ASSESSED.—The assessment de-
21 scribed in subsection (a) shall—

22 “(1) examine the key elements driving the cost
23 factors associated with the cost of tuition at institu-
24 tions of higher education during academic year 2000
25 and succeeding academic years;

1 “(2) identify and evaluate measures being used
2 to control postsecondary education costs;

3 “(3) identify and evaluate effective measures
4 that may be utilized to control postsecondary edu-
5 cation costs in the future; and

6 “(4) identify systemic approaches to monitor
7 future postsecondary education cost trends and post-
8 secondary education cost control mechanisms.

9 **“PART C—JOB SKILL TRAINING IN HIGH-GROWTH**
10 **OCCUPATIONS OR INDUSTRIES**

11 **“SEC. 831. JOB SKILL TRAINING IN HIGH-GROWTH OCCUPA-**
12 **TIONS OR INDUSTRIES.**

13 “(a) GRANTS AUTHORIZED.—The Secretary is au-
14 thorized to award grants, on a competitive basis, to eligible
15 partnerships to enable the eligible partnerships to provide
16 relevant job skill training in high-growth industries or oc-
17 cupations.

18 “(b) DEFINITIONS.—In this section:

19 “(1) ELIGIBLE PARTNERSHIP.—The term ‘eligi-
20 ble partnership’ means a partnership—

21 “(A) between an institution of higher edu-
22 cation and a local board (as such term is de-
23 fined in section 101 of the Workforce Invest-
24 ment Act of 1998); or

1 “(B) if an institution of higher education
2 is located within a State that does not operate
3 local boards, between the institution of higher
4 education and a State board (as such term is
5 defined in section 101 of the Workforce Invest-
6 ment Act of 1998).

7 “(2) NONTRADITIONAL STUDENT.—The term
8 ‘nontraditional student’ means a student who—

9 “(A) is independent, as defined in section
10 480(d);

11 “(B) attends an institution of higher edu-
12 cation—

13 “(i) on less than a full-time basis;

14 “(ii) via evening, weekend, modular,
15 or compressed courses; or

16 “(iii) via distance learning methods;

17 or

18 “(C) has delayed enrollment at an institu-
19 tion of higher education.

20 “(3) INSTITUTION OF HIGHER EDUCATION.—

21 The term ‘institution of higher education’ means an
22 institution of higher education, as defined in section
23 101(b), that offers a 1- or 2-year program of study
24 leading to a degree or certificate.

25 “(c) APPLICATION.—

1 “(1) IN GENERAL.—Each eligible partnership
2 that desires a grant under this section shall submit
3 an application to the Secretary at such time, in such
4 manner, and accompanied by such additional infor-
5 mation as the Secretary may require.

6 “(2) CONTENTS.—Each application submitted
7 under paragraph (1) shall include a description of—

8 “(A) how the eligible partnership, through
9 the institution of higher education, will provide
10 relevant job skill training for students to enter
11 high-growth occupations or industries;

12 “(B) local high-growth occupations or in-
13 dustries; and

14 “(C) the need for qualified workers to meet
15 the local demand of high-growth occupations or
16 industries.

17 “(d) AWARD BASIS.—In awarding grants under this
18 section, the Secretary shall—

19 “(1) ensure an equitable distribution of grant
20 funds under this section among urban and rural
21 areas of the United States; and

22 “(2) take into consideration the capability of
23 the institution of higher education—

1 “(A) to offer relevant, high quality instruc-
2 tion and job skill training for students entering
3 a high-growth occupation or industry;

4 “(B) to involve the local business commu-
5 nity and to place graduates in the community
6 in employment in high-growth occupations or
7 industries;

8 “(C) to provide secondary students with
9 dual-enrollment or concurrent enrollment op-
10 tions;

11 “(D) to serve nontraditional or low-income
12 students, or adult or displaced workers; and

13 “(E) to serve students from rural or re-
14 mote communities.

15 “(e) USE OF FUNDS.—Grant funds provided under
16 this section may be used—

17 “(1) to expand or create academic programs or
18 programs of training that provide relevant job skill
19 training for high-growth occupations or industries;

20 “(2) to purchase equipment which will facilitate
21 the development of academic programs or programs
22 of training that provide training for high-growth oc-
23 cupations or industries;

24 “(3) to support outreach efforts that enable
25 students to attend institutions of higher education

1 with academic programs or programs of training fo-
2 cused on high-growth occupations or industries;

3 “(4) to expand or create programs for distance,
4 evening, weekend, modular, or compressed learning
5 opportunities that provide relevant job skill training
6 in high-growth occupations or industries;

7 “(5) to build partnerships with local businesses
8 in high-growth occupations or industries;

9 “(6) to support curriculum development related
10 to entrepreneurial training; and

11 “(7) for other uses that the Secretary deter-
12 mines to be consistent with the intent of this section.

13 “(f) REQUIREMENTS.—

14 “(1) FISCAL AGENT.—For the purpose of this
15 section, the institution of higher education in an eli-
16 gible partnership shall serve as the fiscal agent and
17 grant recipient for the eligible partnership.

18 “(2) DURATION.—The Secretary shall award
19 grants under this section for periods that may not
20 exceed 5 years.

21 “(3) SUPPLEMENT, NOT SUPPLANT.—Funds
22 made available under this section shall be used to
23 supplement and not supplant other Federal, State,
24 and local funds available to the eligible partnership

1 for carrying out the activities described in subsection
2 (e).

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this part
5 such sums as may be necessary for fiscal year 2006 and
6 each of the 5 succeeding fiscal years.

7 **“PART D—GRANT PROGRAM TO INCREASE STU-**
8 **DENT RETENTION AND PROMOTE ARTICULA-**
9 **TION AGREEMENTS**

10 **“SEC. 841. GRANT PROGRAM TO INCREASE STUDENT RE-**
11 **TENTION AND PROMOTE ARTICULATION**
12 **AGREEMENTS.**

13 “(a) AUTHORIZATION OF PROGRAM.—The Secretary
14 shall award grants, on a competitive basis, to eligible insti-
15 tutions to enable the institutions to—

16 “(1) focus on increasing traditional and non-
17 traditional student retention at such institutions;
18 and

19 “(2) promote articulation agreements among
20 different institutions that will increase the likelihood
21 of progression of students at such institutions to
22 baccalaureate degrees.

23 “(b) DEFINITION OF ELIGIBLE INSTITUTION.—In
24 this section, the term ‘eligible institution’ means an insti-
25 tution of higher education (as defined in section 101(a))

1 where not less than 40 percent of such institution's stu-
2 dent body receives financial aid under subpart 1 of part
3 A of title IV.

4 “(c) APPLICATION.—An eligible institution that de-
5 sires a grant under this section shall submit an application
6 to the Secretary at such time, in such manner, and con-
7 taining such information as the Secretary may require, in-
8 cluding the number of students proposed to be served and
9 a description of the services that will be provided.

10 “(d) MANDATORY ACTIVITIES.—An eligible institu-
11 tion that receives a grant under this section shall use the
12 grant funds to carry out each of the following:

13 “(1) Offering counseling and advisement serv-
14 ices to help students adapt to postsecondary edu-
15 cation and select appropriate coursework.

16 “(2) Making mentors available to students who
17 are at risk for not completing a degree.

18 “(3) Providing detailed assistance to students
19 who request help in understanding—

20 “(A) the options for financing their edu-
21 cation, including information on grants, loans,
22 and loan repayment programs;

23 “(B) the process of applying for financial
24 assistance;

1 “(C) the outcome of their financial assist-
2 ance application; and

3 “(D) any unanticipated problems related to
4 financing their education that arise.

5 “(4) Offering tutoring to students at risk of
6 dropping out of school with any course or subject.

7 “(5) Designing and implementing innovative
8 ways to improve retention in and completion of
9 courses, such as enrolling students in cohorts, pro-
10 viding counseling, or creating bridge programs that
11 customize courses to the needs of special population
12 students.

13 “(6) Conducting outreach activities so that all
14 students know that these services are available and
15 are aware of how to access the services.

16 “(7) Creating articulation agreements to pro-
17 mote smooth transition from two year to four year
18 programs.

19 “(8) Making services listed in paragraphs (1)
20 through (5) available in students’ native languages,
21 if it is not English, if the percentage of students
22 needing translation services in a specific language
23 exceeds 5 percent.

1 “(e) PERMISSIBLE ACTIVITIES.—An eligible institu-
2 tion that receives a grant under this section may use grant
3 funds to carry out any of the following activities:

4 “(1) Designing innovative course schedules to
5 meet the needs of working adults, such as online,
6 modular, compressed, or other alternative methods.

7 “(2) Offering childcare during the hours when
8 students have class or are studying.

9 “(3) Providing transportation assistance to stu-
10 dents that helps such students manage their sched-
11 ules.

12 “(4) Partnering with local businesses to create
13 flexible work-hour programs so that students can
14 balance work and school.

15 “(5) Offering time management or financial lit-
16 eracy seminars to help students improve their man-
17 agement skills.

18 “(6) Improving professional development to
19 align instruction with innovative program designs.

20 “(7) Any other activities the Secretary believes
21 will promote retention of students attending eligible
22 institutions.

23 “(f) TECHNICAL ASSISTANCE.—The Secretary may
24 enter into a contract with a private entity to provide such

1 technical assistance to grantees under this section as the
2 Secretary determines appropriate.

3 “(g) EVALUATION.—The Secretary shall conduct an
4 evaluation of program impacts under the demonstration
5 program, and shall disseminate to the public the findings
6 from the evaluation and information on best practices.

7 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated to carry out this and such
9 sums as may be necessary for fiscal year 2006 and each
10 of the 5 succeeding fiscal years.

11 **“PART E—AMERICAN HISTORY FOR FREEDOM**

12 **“SEC. 851. AMERICAN HISTORY FOR FREEDOM.**

13 “(a) GRANTS AUTHORIZED.—The Secretary is au-
14 thorized to award 3-year grants, on a competitive basis,
15 to eligible institutions to establish or strengthen postsec-
16 ondary academic programs or centers that promote and
17 impart knowledge of—

18 “(1) traditional American history;

19 “(2) the history and nature of, and threats to,
20 free institutions; or

21 “(3) the history and achievements of Western
22 civilization.

23 “(b) DEFINITIONS.—In this section:

1 “(1) ELIGIBLE INSTITUTION.—The term ‘eligi-
2 ble institution’ means an institution of higher edu-
3 cation as defined in section 101.

4 “(2) FREE INSTITUTION.—The term ‘free insti-
5 tution’ means an institution that emerged out of
6 Western civilization, such as democracy, constitu-
7 tional government, individual rights, market econom-
8 ics, religious freedom and religious tolerance, and
9 freedom of thought and inquiry.

10 “(3) TRADITIONAL AMERICAN HISTORY.—The
11 term ‘traditional American history’ means—

12 “(A) the significant constitutional, polit-
13 ical, intellectual, economic, and foreign policy
14 trends and issues that have shaped the course
15 of American history; and

16 “(B) the key episodes, turning points, and
17 leading figures involved in the constitutional,
18 political, intellectual, diplomatic, and economic
19 history of the United States.

20 “(c) APPLICATION.—

21 “(1) IN GENERAL.—Each eligible institution
22 that desires a grant under this part shall submit an
23 application to the Secretary at such time, in such
24 manner, and accompanied by such additional infor-
25 mation as the Secretary may require.

1 “(2) CONTENTS.—Each application submitted
2 under subsection (a) shall include a description of —

3 “(A) how funds made available under this
4 part will be used for the activities set forth
5 under subsection (e), including how such activi-
6 ties will increase knowledge with respect to tra-
7 ditional American history, free institutions, or
8 Western civilization;

9 “(B) how the eligible institution will ensure
10 that information about the activities funded
11 under this part is widely disseminated pursuant
12 to subsection (e)(1)(B);

13 “(C) any activities to be undertaken pursu-
14 ant to subsection (e)(2)(A), including identifica-
15 tion of entities intended to participate;

16 “(D) how funds made available under this
17 part shall be used to supplement and not sup-
18 plant non-Federal funds available for the activi-
19 ties described in subsection (e); and

20 “(E) such fiscal controls and accounting
21 procedures as may be necessary to ensure prop-
22 er disbursement of and accounting for funding
23 made available to the eligible institution under
24 this part.

1 “(d) AWARD BASIS.—In awarding grants under this
2 part, the Secretary shall take into consideration the capa-
3 bility of the eligible institution to—

4 “(1) increase access to quality programming
5 that expands knowledge of traditional American his-
6 tory, free institutions, or Western civilization;

7 “(2) involve personnel with strong expertise in
8 traditional American history, free institutions, or
9 Western civilization; and

10 “(3) sustain the activities funded under this
11 part after the grant has expired.

12 “(e) USE OF FUNDS.—

13 “(1) REQUIRED USE OF FUNDS.—Funds pro-
14 vided under this part shall be used to—

15 “(A) establish or strengthen academic pro-
16 grams or centers focused on traditional Amer-
17 ican history, free institutions, or Western civili-
18 zation, which may include—

19 “(i) design and implementation of
20 programs of study, courses, lecture series,
21 seminars, and symposia;

22 “(ii) development, publication, and
23 dissemination of instructional materials;

24 “(iii) research;

1 “(iv) support for faculty teaching in
2 undergraduate and, if applicable, graduate
3 programs;

4 “(v) support for graduate and post-
5 graduate fellowships, if applicable; or

6 “(vi) teacher preparation initiatives
7 that stress content mastery regarding tra-
8 ditional American history, free institutions,
9 or Western civilization; and

10 “(B) conduct outreach activities to ensure
11 that information about the activities funded
12 under this part is widely disseminated—

13 “(i) to undergraduate students (in-
14 cluding students enrolled in teacher edu-
15 cation programs, if applicable);

16 “(ii) to graduate students (including
17 students enrolled in teacher education pro-
18 grams), if applicable;

19 “(iii) to faculty;

20 “(iv) to local educational agencies;

21 and

22 “(v) within the local community.

23 “(2) ALLOWABLE USES OF FUNDS.—Funds
24 provided under this part may be used to support—

25 “(A) collaboration with entities such as—

1 “(i) local educational agencies, for the
2 purpose of providing elementary, middle
3 and secondary school teachers an oppor-
4 tunity to enhance their knowledge of tradi-
5 tional American history, free institutions,
6 or Western civilization; and

7 “(ii) nonprofit organizations whose
8 mission is consistent with the purpose of
9 this part, such as academic organizations,
10 museums, and libraries, for assistance in
11 carrying out activities described under sub-
12 section (a); and

13 “(B) other activities that meet the pur-
14 poses of this part.

15 “(f) AUTHORIZATION OF APPROPRIATIONS.—For the
16 purpose of carrying out this part, there are authorized to
17 be appropriated such sums as may be necessary for fiscal
18 year 2006 and each of the 5 succeeding fiscal years.

19 **“PART F—TEACH FOR AMERICA**

20 **“SEC. 861. TEACH FOR AMERICA.**

21 “(a) DEFINITIONS.—

22 “(1) IN GENERAL.—The terms ‘highly quali-
23 fied’, ‘local educational agency’, and ‘Secretary’ have
24 the meanings given the terms in section 9101 of the

1 Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 7801).

3 “(2) GRANTEE.—The term ‘grantee’ means
4 Teach For America, Inc.

5 “(3) HIGH NEED.—The term ‘high need’, when
6 used with respect to a local educational agency,
7 means a local educational agency experiencing a
8 shortage of highly qualified teachers.

9 “(b) GRANTS AUTHORIZED.—The Secretary is au-
10 thorized to award a grant to Teach For America, Inc.,
11 the national teacher corps of outstanding recent college
12 graduates who commit to teach for 2 years in underserved
13 communities in the United States, to implement and ex-
14 pand its program of recruiting, selecting, training, and
15 supporting new teachers.

16 “(c) REQUIREMENTS.—In carrying out the grant pro-
17 gram under subsection (b), the Secretary shall enter into
18 an agreement with the grantee under which the grantee
19 agrees to use the grant funds provided under this sec-
20 tion—

21 “(1) to provide highly qualified teachers to high
22 need local educational agencies in urban and rural
23 communities;

24 “(2) to pay the cost of recruiting, selecting,
25 training, and supporting new teachers; and

1 “(3) to serve a substantial number and percent-
2 age of underserved students.

3 “(d) AUTHORIZED ACTIVITIES.—

4 “(1) IN GENERAL.—Grant funds provided
5 under this section shall be used by the grantee to
6 carry out each of the following activities:

7 “(A) Recruiting and selecting teachers
8 through a highly selective national process.

9 “(B) Providing preservice training to the
10 teachers through a rigorous summer institute
11 that includes hands-on teaching experience and
12 significant exposure to education coursework
13 and theory.

14 “(C) Placing the teachers in schools and
15 positions designated by partner local edu-
16 cational agencies as high need placements serv-
17 ing underserved students.

18 “(D) Providing ongoing professional devel-
19 opment activities for the teachers’ first 2 years
20 in the classroom, including regular classroom
21 observations and feedback, and ongoing train-
22 ing and support.

23 “(2) LIMITATION.—The grantee shall use all
24 grant funds received under this section to support
25 activities related directly to the recruitment, selec-

1 tion, training, and support of teachers as described
2 in subsection (a).

3 “(e) REPORTS AND EVALUATIONS.—

4 “(1) ANNUAL REPORT.—The grantee shall pro-
5 vide to the Secretary an annual report that in-
6 cludes—

7 “(A) data on the number and quality of
8 the teachers provided to local educational agen-
9 cies through a grant under this section;

10 “(B) an externally conducted analysis of
11 the satisfaction of local educational agencies
12 and principals with the teachers so provided;
13 and

14 “(C) comprehensive data on the back-
15 ground of the teachers chosen, the training the
16 teachers received, the placement sites of the
17 teachers, the professional development of the
18 teachers, and the retention of the teachers.

19 “(2) STUDY.—

20 “(A) IN GENERAL.—From funds appro-
21 priated under subsection (f), the Secretary shall
22 provide for a study that examines the achieve-
23 ment levels of the students taught by the teach-
24 ers assisted under this section.

1 “(B) ACHIEVEMENT GAINS COMPARED.—

2 The study shall compare, within the same
3 schools, the achievement gains made by stu-
4 dents taught by teachers who are assisted
5 under this section with the achievement gains
6 made by students taught by teachers who are
7 not assisted under this section.

8 “(3) REQUIREMENTS.—The Secretary shall
9 provide for such a study not less than once every 3
10 years, and each such study shall include multiple
11 placement sites and multiple schools within place-
12 ment sites.

13 “(4) PEER REVIEW STANDARDS.—Each such
14 study shall meet the peer review standards of the
15 education research community.

16 “(f) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) IN GENERAL.—There are authorized to be
18 appropriated to carry out this section such sums as
19 may be necessary for fiscal year 2006 and each of
20 the 5 succeeding fiscal years.

21 “(2) LIMITATION.—The grantee shall not use
22 more than 25 percent of Federal funds from any
23 source for administrative costs.

1 **“PART G—PATSY T. MINK FELLOWSHIP PROGRAM**

2 **“SEC. 871. PATSY T. MINK FELLOWSHIP PROGRAM.**

3 “(a) PURPOSE.—

4 “(1) IN GENERAL.—It is the purpose of this
5 section to provide, through eligible institutions, a
6 program of fellowship awards to assist highly quali-
7 fied minorities and women to acquire the doctoral
8 degree, or highest possible degree available, in aca-
9 demic areas in which such individuals are underrep-
10 resented for the purpose of enabling such individuals
11 to enter the higher education professoriate.

12 “(2) DESIGNATION.—Each recipient of a fellow-
13 ship award from an eligible institution receiving a
14 grant under this section shall be known as a ‘Patsy
15 T. Mink Graduate Fellow’.

16 “(b) DEFINITIONS.—In this section, the term ‘eligible
17 institution’ means an institution of higher education, or
18 a consortium of such institutions, that offers a program
19 of postbaccalaureate study leading to a graduate degree.

20 “(c) PROGRAM AUTHORIZED.—

21 “(1) GRANTS BY SECRETARY.—

22 “(A) IN GENERAL.—The Secretary shall
23 award grants to eligible institutions to enable
24 such institutions to make fellowship awards to
25 individuals in accordance with the provisions of
26 this section.

1 “(B) PRIORITY CONSIDERATION.—In
2 awarding grants under this section, the Sec-
3 retary shall consider the eligible institution’s
4 prior experience in producing doctoral degree,
5 or highest possible degree available, holders who
6 are minorities and women, and shall give pri-
7 ority consideration in making grants under this
8 section to those eligible institutions with a dem-
9 onstrated record of producing minorities and
10 women who have earned such degrees.

11 “(2) APPLICATIONS.—

12 “(A) IN GENERAL.—An eligible institution
13 that desires a grant under this section shall
14 submit an application to the Secretary at such
15 time, in such manner, and containing such in-
16 formation as the Secretary may require.

17 “(B) APPLICATIONS MADE ON BEHALF.—

18 “(i) IN GENERAL.—The following en-
19 tities may submit an application on behalf
20 of an eligible institution:

21 “(I) A graduate school or depart-
22 ment of such institution.

23 “(II) A graduate school or de-
24 partment of such institution in col-

1 laboration with an undergraduate col-
2 lege or university of such institution.

3 “(III) An organizational unit
4 within such institution that offers a
5 program of postbaccalaureate study
6 leading to a graduate degree, includ-
7 ing an interdisciplinary or an inter-
8 departmental program.

9 “(IV) A nonprofit organization
10 with a demonstrated record of helping
11 minorities and women earn
12 postbaccalaureate degrees.

13 “(ii) NONPROFIT ORGANIZATIONS.—
14 Nothing in this paragraph shall be con-
15 strued to permit the Secretary to award a
16 grant under this section to an entity other
17 than an eligible institution.

18 “(3) SELECTION OF APPLICATIONS.—In award-
19 ing grants under subsection (a), the Secretary
20 shall—

21 “(A) take into account—

22 “(i) the number and distribution of
23 minority and female faculty nationally;

1 “(ii) the current and projected need
2 for highly trained individuals in all areas
3 of the higher education professoriate; and

4 “(iii) the present and projected need
5 for highly trained individuals in academic
6 career fields in which minorities and
7 women are underrepresented in the higher
8 education professoriate; and

9 “(B) consider the need to prepare a large
10 number of minorities and women generally in
11 academic career fields of high national priority,
12 especially in areas in which such individuals are
13 traditionally underrepresented in college and
14 university faculties, such as mathematics,
15 science, technology, and engineering.

16 “(4) DISTRIBUTION AND AMOUNTS OF
17 GRANTS.—

18 “(A) EQUITABLE DISTRIBUTION.—In
19 awarding grants under this section, the Sec-
20 retary shall, to the maximum extent feasible,
21 ensure an equitable geographic distribution of
22 awards and an equitable distribution among
23 public and independent eligible institutions that
24 apply for grants under this section and that

1 demonstrate an ability to achieve the purpose of
2 this section.

3 “(B) SPECIAL RULE.—To the maximum
4 extent practicable, the Secretary shall use not
5 less than 30 percent of the amount appro-
6 priated pursuant to subsection (f) to award
7 grants to eligible institutions that—

8 “(i) are eligible for assistance under
9 title III or title V; or

10 “(ii) have formed a consortium that
11 includes both non-minority serving institu-
12 tions and minority serving institutions.

13 “(C) ALLOCATION.—In awarding grants
14 under this section, the Secretary shall allocate
15 appropriate funds to those eligible institutions
16 whose applications indicate an ability to signifi-
17 cantly increase the numbers of minorities and
18 women entering the higher education professo-
19 riate and that commit institutional resources to
20 the attainment of the purpose of this section.

21 “(D) NUMBER OF FELLOWSHIP
22 AWARDS.—An eligible institution that receives a
23 grant under this section shall make not less
24 than 15 fellowship awards.

1 “(E) REALLOTMENT.—If the Secretary de-
2 termines that an eligible institution awarded a
3 grant under this section is unable to use all of
4 the grant funds awarded to the institution, the
5 Secretary shall reallocate, on such date during
6 each fiscal year as the Secretary may fix, the
7 unused funds to other eligible institutions that
8 demonstrate that such institutions can use any
9 reallocated grant funds to make fellowship
10 awards to individuals under this section.

11 “(5) INSTITUTIONAL ALLOWANCE.—

12 “(A) IN GENERAL.—

13 “(i) NUMBER OF ALLOWANCES.—In
14 awarding grants under this section, the
15 Secretary shall pay to each eligible institu-
16 tion awarded a grant, for each individual
17 awarded a fellowship by such institution
18 under this section, an institutional allow-
19 ance.

20 “(ii) AMOUNT.—Except as provided in
21 paragraph (3), an institutional allowance
22 shall be in an amount equal to, for aca-
23 demic year 2006-2007 and succeeding aca-
24 demic years, the amount of institutional al-
25 lowance made to an institution of higher

1 education under section 715 for such aca-
2 demic year.

3 “(B) USE OF FUNDS.—Institutional allow-
4 ances may be expended in the discretion of the
5 eligible institution and may be used to provide,
6 except as prohibited under paragraph (4), aca-
7 demic support and career transition services for
8 individuals awarded fellowships by such institu-
9 tion.

10 “(C) REDUCTION.—The institutional al-
11 lowance paid under paragraph (1) shall be re-
12 duced by the amount the eligible institution
13 charges and collects from a fellowship recipient
14 for tuition and other expenses as part of the re-
15 cipient’s instructional program.

16 “(D) USE FOR OVERHEAD PROHIBITED.—
17 Funds made available under this section may
18 not be used for general operational overhead of
19 the academic department or institution receiv-
20 ing funds under this section.

21 “(d) FELLOWSHIP RECIPIENTS.—

22 “(1) AUTHORIZATION.—An eligible institution
23 that receives a grant under this section shall use the
24 grant funds to make fellowship awards to minorities
25 and women who are enrolled at such institution in

1 a doctoral degree, or highest possible degree avail-
2 able, program and—

3 “(A) intend to pursue a career in instruc-
4 tion at—

5 “(i) an institution of higher education
6 (as the term is defined in section 101);

7 “(ii) an institution of higher education
8 (as the term is defined in section
9 102(a)(1));

10 “(iii) an institution of higher edu-
11 cation outside the United States (as the
12 term is described in section 102(a)(2)); or

13 “(iv) a proprietary institution of high-
14 er education (as the term is defined in sec-
15 tion 102(b)); and

16 “(B) sign an agreement with the Secretary
17 agreeing—

18 “(i) to begin employment at an insti-
19 tution described in paragraph (1) not later
20 than 3 years after receiving the doctoral
21 degree or highest possible degree available,
22 which 3-year period may be extended by
23 the Secretary for extraordinary cir-
24 cumstances; and

1 “(ii) to be employed by such institu-
2 tion for 1 year for each year of fellowship
3 assistance received under this section.

4 “(2) FAILURE TO COMPLY.—If an individual
5 who receives a fellowship award under this section
6 fails to comply with the agreement signed pursuant
7 to subsection (a)(2), then the Secretary shall do 1
8 or both of the following:

9 “(A) Require the individual to repay all or
10 the applicable portion of the total fellowship
11 amount awarded to the individual by converting
12 the balance due to a loan at the interest rate
13 applicable to loans made under part B of title
14 IV.

15 “(B) Impose a fine or penalty in an
16 amount to be determined by the Secretary.

17 “(3) WAIVER AND MODIFICATION.—

18 “(A) REGULATIONS.—The Secretary shall
19 promulgate regulations setting forth criteria to
20 be considered in granting a waiver for the serv-
21 ice requirement under subsection (a)(2).

22 “(B) CONTENT.—The criteria under para-
23 graph (1) shall include whether compliance with
24 the service requirement by the fellowship recipi-
25 ent would be—

1 “(i) inequitable and represent an ex-
2 traordinary hardship; or

3 “(ii) deemed impossible because the
4 individual is permanently and totally dis-
5 abled at the time of the waiver request.

6 “(4) AMOUNT OF FELLOWSHIP AWARDS.—Fel-
7 lowship awards under this section shall consist of a
8 stipend in an amount equal to the level of support
9 provided to the National Science Foundation grad-
10 uate fellows, except that such stipend shall be ad-
11 justed as necessary so as not to exceed the fellow’s
12 tuition and fees or demonstrated need (as deter-
13 mined by the institution of higher education where
14 the graduate student is enrolled), whichever is great-
15 er.

16 “(5) ACADEMIC PROGRESS REQUIRED.—An in-
17 dividual student shall not be eligible to receive a fel-
18 lowship award—

19 “(A) except during periods in which such
20 student is enrolled, and such student is main-
21 taining satisfactory academic progress in, and
22 devoting essentially full time to, study or re-
23 search in the pursuit of the degree for which
24 the fellowship support was awarded; and

1 “(B) if the student is engaged in gainful
2 employment, other than part-time employment
3 in teaching, research, or similar activity deter-
4 mined by the eligible institution to be consistent
5 with and supportive of the student’s progress
6 toward the appropriate degree.

7 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to require an eligible institution
9 that receives a grant under this section—

10 “(1) to grant a preference or to differentially
11 treat any applicant for a faculty position as a result
12 of the institution’s participation in the program
13 under this section; or

14 “(2) to hire a Patsy T. Mink Fellow who com-
15 pletes this program and seeks employment at such
16 institution.

17 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated to carry out this section
19 such sums as may be necessary for fiscal year 2006 for
20 each of the 5 succeeding fiscal years.

1 **“PART H—STUDY ON COLLEGE ENROLLMENT BY**
 2 **SECONDARY SCHOOLS**

3 **“SEC. 881. STUDY ON COLLEGE ENROLLMENT BY SEC-**
 4 **ONDARY SCHOOLS.**

5 “The Secretary shall contract with a not-for-profit or-
 6 ganization, with demonstrated expertise in increasing col-
 7 lege enrollment rates in low-income communities nation-
 8 wide, to make publicly available year-to-year college enroll-
 9 ment rate trends by secondary schools, in full compliance
 10 with the Family Educational Rights and Privacy Act of
 11 1974 (FERPA).”.

12 **CHAPTER 10—AMENDMENTS TO OTHER**
 13 **LAWS**

14 **Subchapter A—Education of the Deaf Act of**
 15 **1986**

16 **SEC. 7901. LAURENT CLERC NATIONAL DEAF EDUCATION**
 17 **CENTER.**

18 Section 104 of the Education of the Deaf Act of 1986
 19 (20 U.S.C. 4304) is amended—

20 (1) by striking the heading and inserting
 21 **“LAURENT CLERC NATIONAL DEAF EDUCATION**
 22 **CENTER”**;

23 (2) in subsection (a)(1)(A), by inserting “the
 24 Laurent Clerc National Deaf Education Center (re-
 25 ferred to in this section as the ‘Clerc Center’) to
 26 carry out” after “maintain and operate”; and

1 (3) in subsection (b)—

2 (A) in the matter preceding subparagraph
3 (A) of paragraph (1), by striking “elementary
4 and secondary education programs” and insert-
5 ing “Clerc Center”;

6 (B) in paragraph (2), by striking “elemen-
7 tary and secondary education programs” and
8 inserting “Clerc Center”; and

9 (C) by adding at the end the following:

10 “(5) The University, for purposes of the elementary
11 and secondary education programs carried out at the Clerc
12 Center, shall—

13 “(A)(i) select challenging academic content
14 standards, challenging student academic achieve-
15 ment standards, and academic assessments of a
16 State, adopted and implemented, as appropriate,
17 pursuant to paragraphs (1) and (3) of section
18 1111(b) of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 6311(b)(1) and (3))
20 and approved by the Secretary; and

21 “(ii) implement such standards and assess-
22 ments for such programs by not later than the be-
23 ginning of the 2008–2009 academic year;

24 “(B) annually determine whether such pro-
25 grams at the Clerc Center are making adequate

1 yearly progress, as determined according to the defi-
2 nition of adequate yearly progress defined (pursuant
3 to section 1111(b)(2)(C) of such Act (20 U.S.C.
4 6311(b)(2)(C))) by the State that has adopted and
5 implemented the standards and assessments selected
6 under subparagraph (A)(i); and

7 “(C) publicly report the results of the academic
8 assessments implemented under subparagraph (A)
9 and whether the programs at the Clerc Center are
10 making adequate yearly progress, as determined
11 under subparagraph (B).”.

12 **SEC. 7902. AGREEMENT WITH GALLAUDET UNIVERSITY.**

13 Section 105(b)(4) of the Education of the Deaf Act
14 of 1986 (20 U.S.C. 4305(b)(4)) is amended—

15 (1) by striking “the Act of March 3, 1931 (40
16 U.S.C. 276a–276a–5) commonly referred to as the
17 Davis-Bacon Act” and inserting “subchapter IV of
18 chapter 31 of title 40, United States Code, com-
19 monly referred to as the Davis-Bacon Act”; and

20 (2) by striking “section 2 of the Act of June
21 13, 1934 (40 U.S.C. 276c)” and inserting “section
22 3145 of title 40, United States Code”.

1 **SEC. 7903. AGREEMENT FOR THE NATIONAL TECHNICAL IN-**
2 **STITUTE FOR THE DEAF.**

3 Section 112 of the Education of the Deaf Act of 1986
4 (20 U.S.C. 4332) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)—

7 (i) in the first sentence—

8 (I) by striking “an institution of
9 higher education” and inserting “the
10 Rochester Institute of Technology,
11 Rochester, New York”; and

12 (II) by striking “of a” and in-
13 serting “of the”; and

14 (ii) by striking the second sentence;

15 (B) by redesignating paragraph (2) as
16 paragraph (3); and

17 (C) by inserting after paragraph (1) the
18 following:

19 “(2) Notwithstanding the requirement under
20 paragraph (1), if the Secretary or the Rochester In-
21 stitute of Technology terminates the agreement
22 under paragraph (1), the Secretary shall consider
23 proposals from other institutions of higher education
24 and enter into an agreement with 1 of such institu-
25 tions for the establishment and operation of a Na-
26 tional Technical Institution for the Deaf.”; and

1 (2) in subsection (b)—

2 (A) in paragraph (3), by striking “Com-
3 mittee on Education and Labor of the House of
4 Representatives and to the Committee on Labor
5 and Human Resources of the Senate” and in-
6 serting “Committee on Education and the
7 Workforce of the House of Representatives and
8 to the Committee on Health, Education, Labor,
9 and Pensions of the Senate”; and

10 (B) in paragraph (5)—

11 (i) by striking “the Act of March 3,
12 1931 (40 U.S.C. 276a–276a–5) commonly
13 referred to as the Davis-Bacon Act” and
14 inserting “subchapter IV of chapter 31 of
15 title 40, United States Code, commonly re-
16 ferred to as the Davis-Bacon Act”; and

17 (ii) by striking “section 2 of the Act
18 of June 13, 1934 (40 U.S.C. 276c)” and
19 inserting “section 3145 of title 40, United
20 States Code”.

21 **SEC. 7904. CULTURAL EXPERIENCES GRANTS.**

22 (a) CULTURAL EXPERIENCES GRANTS.—Title I of
23 the Education of the Deaf Act of 1986 (20 U.S.C. 4301
24 et seq.) is amended by adding at the end the following:

1 **“PART C—OTHER PROGRAMS**

2 **“SEC. 121. CULTURAL EXPERIENCES GRANTS.**

3 “(a) IN GENERAL.—The Secretary shall, on a com-
4 petitive basis, make grants to, and enter into contracts
5 and cooperative agreements with, eligible entities to sup-
6 port the activities described in subsection (b).

7 “(b) ACTIVITIES.—In carrying out this section, the
8 Secretary shall support activities providing cultural experi-
9 ences, through appropriate nonprofit organizations with a
10 demonstrated proficiency in providing such activities,
11 that—

12 “(1) enrich the lives of deaf and hard-of-hear-
13 ing children and adults;

14 “(2) increase public awareness and under-
15 standing of deafness and of the artistic and intellec-
16 tual achievements of deaf and hard-of-hearing per-
17 sons; or

18 “(3) promote the integration of hearing, deaf,
19 and hard-of-hearing persons through shared cul-
20 tural, educational, and social experiences.

21 “(c) APPLICATIONS.—An eligible entity that desires
22 to receive a grant, or enter into a contract or cooperative
23 agreement, under this section shall submit an application
24 to the Secretary at such time, in such manner, and con-
25 taining such information as the Secretary may require.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to carry out this section
3 such sums as may be necessary for fiscal year 2006 and
4 each of the 5 succeeding fiscal years.”.

5 (b) CONFORMING AMENDMENT.—The title heading
6 of title I of the Education of the Deaf Act of 1986 (20
7 U.S.C. 4301 et seq.) is amended by adding at the end
8 “; OTHER PROGRAMS”.

9 **SEC. 7905. AUDIT.**

10 Section 203 of the Education of the Deaf Act of 1986
11 (20 U.S.C. 4353) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (1), by striking the sec-
14 ond sentence and inserting the following: “The
15 institution of higher education that the Sec-
16 retary has an agreement with under section 112
17 shall have an annual independent financial and
18 compliance audit made of NTID programs and
19 activities. The audit shall follow the cycle of the
20 Federal fiscal year.”;

21 (B) in paragraph (2), by striking “sec-
22 tions” and all that follows through the period
23 and inserting “sections 102(b), 105(b)(4),
24 112(b)(5), 203(c), 207(b)(2), subsections (c)

1 through (f) of section 207, and subsections (b)
2 and (c) of section 209.”; and

3 (C) in paragraph (3), by inserting “and
4 the Committee on Education and the Workforce
5 of the House of Representatives and the Com-
6 mittee on Health, Education, Labor, and Pen-
7 sions of the Senate” after “Secretary”; and

8 (2) in subsection (c)(2)(A), by striking “Com-
9 mittee on Education and Labor of the House of
10 Representatives and the Committee on Labor and
11 Human Resources of the Senate” and inserting
12 “Committee on Education and the Workforce of the
13 House of Representatives and the Committee on
14 Health, Education, Labor, and Pensions of the Sen-
15 ate”.

16 **SEC. 7906. REPORTS.**

17 Section 204 of the Education of the Deaf Act of 1986
18 (20 U.S.C. 4354) is amended—

19 (1) in the matter preceding paragraph (1), by
20 striking “Committee on Education and Labor of the
21 House of Representatives and the Committee on
22 Labor and Human Resources of the Senate” and in-
23 serting “Committee on Education and the Workforce
24 of the House of Representatives and the Committee

1 on Health, Education, Labor, and Pensions of the
2 Senate”;

3 (2) in paragraph (1), by striking “pre-
4 paratory,”;

5 (3) in paragraph (2)(C), by striking “upon
6 graduation/completion” and inserting “on the date
7 that is 1 year after the date of graduation or com-
8 pletion”; and

9 (4) in paragraph (3)(B), by striking “of the in-
10 stitution of higher education” and all that follows
11 through the period and inserting “of NTID pro-
12 grams and activities.”.

13 **SEC. 7907. MONITORING, EVALUATION, AND REPORTING.**

14 Section 205 of the Education of the Deaf Act of 1986
15 (20 U.S.C. 4355) is amended—

16 (1) in subsection (b), by striking “The Sec-
17 retary, as part of the annual report required under
18 section 426 of the Department of Education Organi-
19 zation Act, shall include a description of” and in-
20 serting “The Secretary shall annually transmit infor-
21 mation to Congress on”; and

22 (2) in subsection (c), by striking “fiscal years
23 1998 through 2003” and inserting “fiscal years
24 2006 through 2010”.

1 **SEC. 7908. LIAISON FOR EDUCATIONAL PROGRAMS.**

2 Section 206(a) of the Education of the Deaf Act of
3 1986 (20 U.S.C. 4356(a)) is amended by striking “Not
4 later than 30 days after the date of enactment of this Act,
5 the” and inserting “The”.

6 **SEC. 7909. FEDERAL ENDOWMENT PROGRAMS FOR GAL-**
7 **LAUDET UNIVERSITY AND THE NATIONAL**
8 **TECHNICAL INSTITUTE FOR THE DEAF.**

9 Section 207(h) of the Education of the Deaf Act of
10 1986 (20 U.S.C. 4357(h)) is amended by striking “fiscal
11 years 1998 through 2003” each place it appears and in-
12 serting “fiscal years 2006 through 2010”.

13 **SEC. 7910. OVERSIGHT AND EFFECT OF AGREEMENTS.**

14 Section 208(a) of the Education of the Deaf Act of
15 1986 (20 U.S.C. 4359(a)) is amended by striking “Com-
16 mittee on Labor and Human Resources of the Senate and
17 the Committee on Education and the Workforce of the
18 House of Representatives” and inserting “Committee on
19 Education and the Workforce of the House of Representa-
20 tives and the Committee on Health, Education, Labor,
21 and Pensions of the Senate”.

22 **SEC. 7911. INTERNATIONAL STUDENTS.**

23 Section 209 of the Education of the Deaf Act of 1986
24 (20 U.S.C. 4359a) is amended—

25 (1) in subsection (a)—

1 (A) by striking “preparatory, under-
2 graduate,” and inserting “undergraduate”;

3 (B) by striking “Effective with” and in-
4 sserting the following:

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), effective with”; and

7 (C) by adding at the end the following:

8 “(2) DISTANCE LEARNING.—International stu-
9 dents who participate in distance learning courses
10 that are at NTID or the University and who are re-
11 siding outside of the United States shall—

12 “(A) not be counted as international stu-
13 dents for purposes of the cap on international
14 students under paragraph (1), except that in
15 any school year no United States citizen who
16 applies to participate in distance learning
17 courses that are at the University or NTID
18 shall be denied participation in such courses be-
19 cause of the participation of an international
20 student in such courses; and

21 “(B) not be charged a tuition surcharge,
22 as described in subsection (b).”; and

23 (2) by striking subsections (b), (c), and (d), and
24 inserting the following:

1 “(b) TUITION SURCHARGE.—Except as provided in
 2 subsections (a)(2)(B) and (c), the tuition for postsec-
 3 ondary international students enrolled in the University
 4 (including undergraduate and graduate students) or
 5 NTID shall include, for academic year 2007–2008 and
 6 any succeeding academic year, a surcharge of—

7 “(1) 100 percent for a postsecondary inter-
 8 national student from a non-developing country; and

9 “(2) 50 percent for a postsecondary inter-
 10 national student from a developing country.

11 “(c) REDUCTION OF SURCHARGE.—

12 “(1) IN GENERAL.—Beginning with the aca-
 13 demic year 2007–2008, the University or NTID may
 14 reduce the surcharge—

15 “(A) under subsection (b)(1) to 50 percent
 16 if—

17 “(i) a student described under sub-
 18 section (b)(1) demonstrates need; and

19 “(ii) such student has made a good
 20 faith effort to secure aid through such stu-
 21 dent’s government or other sources; and

22 “(B) under subsection (b)(2) to 25 percent
 23 if—

24 “(i) a student described under sub-
 25 section (b)(2) demonstrates need; and

1 “(ii) such student has made a good
2 faith effort to secure aid through such stu-
3 dent’s government or other sources.

4 “(2) DEVELOPMENT OF SLIDING SCALE.—The
5 University and NTID shall develop a sliding scale
6 model that—

7 “(A) will be used to determine the amount
8 of a tuition surcharge reduction pursuant to
9 paragraph (1); and

10 “(B) shall be approved by the Secretary.

11 “(d) DEFINITION.—In this section, the term ‘devel-
12 oping country’ means a country with a per-capita income
13 of not more than \$4,825, measured in 1999 United States
14 dollars, as adjusted by the Secretary to reflect inflation
15 since 1999.”.

16 **SEC. 7912. RESEARCH PRIORITIES.**

17 Section 210(b) of the Education of the Deaf Act of
18 1986 (20 U.S.C. 4359b(b)) is amended by striking “Com-
19 mittee on Labor and Human Resources of the Senate”
20 and inserting “Committee on Health, Education, Labor,
21 and Pensions of the Senate”.

22 **SEC. 7913. AUTHORIZATION OF APPROPRIATIONS.**

23 Section 212 of the Education of the Deaf Act of 1986
24 (20 U.S.C. 4360a) is amended—

1 (c) FUNDING.—Section 1710 of the United States In-
2 stitute of Peace Act (22 U.S.C. 4609) is amended by add-
3 ing at the end the following:

4 “(d) EXTENSION.—Any authorization of appropria-
5 tions made for the purposes of carrying out this title shall
6 be extended in the same manner as applicable programs
7 are extended under section 422 of the General Education
8 Provisions Act.”.

9 **Subchapter C—The Higher Education**

10 **Amendments of 1998**

11 **SEC. 7931. REPEALS.**

12 The following provisions of title VIII of the Higher
13 Education Amendments of 1998 (Public Law 105–244)
14 are repealed:

- 15 (1) Part A.
- 16 (2) Part C (20 U.S.C. 1070 note).
- 17 (3) Part F (20 U.S.C. 1862 note).
- 18 (4) Part J.
- 19 (5) Section 861.
- 20 (6) Section 863.

21 **SEC. 7932. GRANTS TO STATES FOR WORKPLACE AND COM-** 22 **MUNITY TRANSITION TRAINING FOR INCAR-** 23 **CERATED YOUTH OFFENDERS.**

24 Section 821(b) of the Higher Education Amendment
25 of 1988 is amended by striking “25” and inserting “35”.

1 **Subchapter D—Indian Education**

2 **PART I—TRIBAL COLLEGES AND UNIVERSITIES**

3 **SEC. 7941. REAUTHORIZATION OF THE TRIBALLY CON-**
4 **TROLLED COLLEGE OR UNIVERSITY ASSIST-**
5 **ANCE ACT OF 1978.**

6 (a) CLARIFICATION OF THE DEFINITION OF NA-
7 TIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the
8 Tribally Controlled College or University Assistance Act
9 of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking
10 “in the field of Indian education” and inserting “in the
11 fields of tribally controlled colleges and universities and
12 Indian higher education”.

13 (b) INDIAN STUDENT COUNT.—Section 2(a) of the
14 Tribally Controlled College or University Assistance Act
15 (25 U.S.C. 1801(a)) is amended—

16 (1) by redesignating paragraphs (7) and (8) as
17 paragraphs (8) and (9), respectively; and

18 (2) by inserting after paragraph (6) the fol-
19 lowing:

20 “(7) ‘Indian student’ means a student who is—

21 “(A) a member of an Indian tribe; or

22 “(B) a biological child of a member of an
23 Indian tribe, living or deceased;”.

24 (c) CONTINUING EDUCATION.—Section 2(b) of the
25 Tribally Controlled College or University Assistance Act

1 (25 U.S.C. 1801(b)) is amended by striking paragraph (5)
2 and inserting the following:

3 “(5) DETERMINATION OF CREDITS.—Eligible
4 credits earned in a continuing education program—

5 “(A) shall be determined as 1 credit for
6 every 10 contact hours in the case of an institu-
7 tion on a quarter system, or 15 contact hours
8 in the case of an institution on a semester sys-
9 tem, of participation in an organized continuing
10 education experience under responsible sponsor-
11 ship, capable direction, and qualified instruc-
12 tion, as described in the criteria established by
13 the International Association for Continuing
14 Education and Training; and

15 “(B) shall be limited to 10 percent of the
16 Indian student count of a tribally controlled col-
17 lege or university.”.

18 (d) ACCREDITATION REQUIREMENT.—Section 103 of
19 the Tribally Controlled College or University Assistance
20 Act (25 U.S.C. 1804) is amended—

21 (1) in paragraph (2), by striking “and” at the
22 end;

23 (2) in paragraph (3), by striking the period at
24 the end and inserting “; and”; and

1 (3) by inserting after paragraph (3), the fol-
2 lowing:

3 “(4)(A) is accredited by a nationally recognized
4 accrediting agency or association determined by the
5 Secretary of Education to be a reliable authority
6 with regard to the quality of training offered; or

7 “(B) is, according to such an agency or associa-
8 tion, making reasonable progress toward accredita-
9 tion.”.

10 (e) TECHNICAL ASSISTANCE CONTRACT AWARDS.—

11 Section 105 of the Tribally Controlled College or Univer-
12 sity Assistance Act (25 U.S.C. 1805) is amended in the
13 second sentence by striking “In the awarding of contracts
14 for technical assistance, preference shall be given” and in-
15 serting “The Secretary shall direct that contracts for tech-
16 nical assistance be awarded”.

17 (f) TITLE I REAUTHORIZATION.—Section 110(a) of
18 the Tribally Controlled College or University Assistance
19 Act of 1978 (25 U.S.C. 1810(a)) is amended—

20 (1) in paragraphs (1), (2), (3), and (4), by
21 striking “1999” and inserting “2006”;

22 (2) in paragraphs (1), (2), and (3), by striking
23 “4 succeeding” and inserting “5 succeeding”;

1 (3) in paragraph (2), by striking
2 “\$40,000,000” and inserting “such sums as may be
3 necessary”;

4 (4) in paragraph (3), by striking
5 “\$10,000,000” and inserting “such sums as may be
6 necessary”; and

7 (5) in paragraph (4), by striking “succeeding
8 4” and inserting “5 succeeding”.

9 (g) TITLE III REAUTHORIZATION.—Section 306(a)
10 of the Tribally Controlled College or University Assistance
11 Act of 1978 (25 U.S.C. 1836(a)) is amended—

12 (1) by striking “1999” and inserting “2006”;
13 and

14 (2) by striking “4 succeeding” and inserting “5
15 succeeding”.

16 (h) TITLE IV REAUTHORIZATION.—Section 403 of
17 the Tribal Economic Development and Technology Re-
18 lated Education Assistance Act of 1990 (25 U.S.C. 1852)
19 is amended—

20 (1) by striking “\$2,000,000 for fiscal year
21 1999” and inserting “such sums as may be nec-
22 essary for fiscal year 2006”; and

23 (2) by striking “4 succeeding” and inserting “5
24 succeeding”.

1 **PART II—NAVAJO HIGHER EDUCATION**

2 **SEC. 7945. SHORT TITLE.**

3 This part may be cited as the “Navajo Nation Higher
4 Education Act of 2005”.

5 **SEC. 7946. REAUTHORIZATION OF NAVAJO COMMUNITY**
6 **COLLEGE ACT.**

7 (a) **PURPOSE.**—Section 2 of the Navajo Community
8 College Act (25 U.S.C. 640a) is amended—

9 (1) by striking “Navajo Tribe of Indians” and
10 inserting “Navajo Nation”; and

11 (2) by striking “the Navajo Community Col-
12 lege” and inserting “Diné College”.

13 (b) **GRANTS.**—Section 3 of the Navajo Community
14 College Act (25 U.S.C. 640b) is amended—

15 (1) in the first sentence—

16 (A) by inserting “the” before “Interior”;

17 (B) by striking “Navajo Tribe of Indians”
18 and inserting “Navajo Nation”; and

19 (C) by striking “the Navajo Community
20 College” and inserting “Diné College”; and

21 (2) in the second sentence—

22 (A) by striking “Navajo Tribe” and insert-
23 ing “Navajo Nation”; and

24 (B) by striking “Navajo Indians” and in-
25 serting “Navajo people”.

1 (c) STUDY OF FACILITIES NEEDS.—Section 4 of the
2 Navajo Community College Act (25 U.S.C. 640c) is
3 amended—

4 (1) in subsection (a)—

5 (A) in the first sentence—

6 (i) by striking “the Navajo Commu-
7 nity College” and inserting “Diné College”;
8 and

9 (ii) by striking “August 1, 1979” and
10 inserting “October 31, 2009”; and

11 (B) in the second sentence, by striking
12 “Navajo Tribe” and inserting “Navajo Nation”;

13 (2) in subsection (b), by striking “the date of
14 enactment of the Tribally Controlled Community
15 College Assistance Act of 1978” and inserting “Oc-
16 tober 1, 2006”; and

17 (3) in subsection (c), in the first sentence, by
18 striking “the Navajo Community College” and in-
19 serting “Diné College”.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
21 5 of the Navajo Community College Act (25 U.S.C. 640c–
22 1) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (1), by striking
25 “\$2,000,000” and all that follows through the

1 end of the paragraph and inserting “such sums
2 as are necessary for fiscal years 2006 through
3 2011.”; and

4 (B) by adding at the end the following:

5 “(3) Sums described in paragraph (2) shall be used
6 to provide grants for construction activities, including the
7 construction of buildings, water and sewer facilities, roads,
8 information technology and telecommunications infra-
9 structure, classrooms, and external structures (such as
10 walkways).”;

11 (2) in subsection (b)(1)—

12 (A) in the matter preceding subparagraph

13 (A)—

14 (i) by striking “the Navajo Commu-
15 nity College” and inserting “Diné College”;

16 and

17 (ii) by striking “, for each fiscal year”
18 and all that follows through “for—” and
19 inserting “such sums as are necessary for
20 fiscal years 2006 through 2011 to pay the
21 cost of—”;

22 (B) in subparagraph (A)—

23 (i) by striking “college” and inserting
24 “College”;

1 (ii) in clauses (i) and (iii), by striking
2 the commas at the ends of the clauses and
3 inserting semicolons; and

4 (iii) in clause (ii), by striking “, and”
5 at the end and inserting “; and”;

6 (C) in subparagraph (B), by striking the
7 comma at the end and inserting a semicolon;

8 (D) in subparagraph (C), by striking “,
9 and” at the end and inserting a semicolon;

10 (E) in subparagraph (D), by striking the
11 period at the end and inserting “; and”; and

12 (F) by adding at the end the following:

13 “(E) improving and expanding the College,
14 including by providing, for the Navajo people
15 and others in the community of the College—

16 “(i) higher education programs;

17 “(ii) vocational and technical edu-
18 cation;

19 “(iii) activities relating to the preser-
20 vation and protection of the Navajo lan-
21 guage, philosophy, and culture;

22 “(iv) employment and training oppor-
23 tunities;

24 “(v) economic development and com-
25 munity outreach; and

1 “(vi) a safe learning, working, and liv-
2 ing environment.”; and

3 (3) in subsection (c), by striking “the Navajo
4 Community College” and inserting “Diné College”.

5 (e) EFFECT ON OTHER LAWS.—Section 6 of the
6 Navajo Community College Act (25 U.S.C. 640c–2) is
7 amended—

8 (1) by striking “the Navajo Community Col-
9 lege” each place it appears and inserting “Diné Col-
10 lege”; and

11 (2) in subsection (b), by striking “college” and
12 inserting “College”.

13 (f) PAYMENTS; INTEREST.—Section 7 of the Navajo
14 Community College Act (25 U.S.C. 640c–3) is amended
15 by striking “the Navajo Community College” each place
16 it appears and inserting “Diné College”.

17 **TITLE VIII—COMMITTEE ON THE**
18 **JUDICIARY**

19 **SEC. 8001. RECAPTURE OF UNUSED VISA NUMBERS.**

20 (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED
21 IMMIGRANT VISAS.—Section 201(d) of the Immigration
22 and Nationality Act (8 U.S.C. 1151(d)) is amended—

23 (1) in paragraph (2)(C)—

24 (A) by striking “is the difference” and in-
25 serting “is the sum of—

1 “(i) the difference”; and

2 (B) by striking the period at the end and
3 inserting the following: “; and

4 “(ii) the lesser of—

5 “(I) the number of immigrant
6 visas that were available in any pre-
7 vious fiscal year to employment-based
8 immigrants (and their family mem-
9 bers accompanying or following to join
10 under section 203(d)) and that were
11 not issued for that fiscal year or for
12 any subsequent fiscal year, excluding
13 those immigrant visas reserved for
14 employment-based immigrants for an
15 occupation listed in schedule A of sec-
16 tion 656.5 of title 20, Code of Federal
17 Regulations; and

18 “(II) 90,000.”; and

19 (2) by adding at the end the following:

20 “(3) Immigrant visas issued on or after October
21 1, 2004, to spouses and children of employment-
22 based immigrants shall not be counted against the
23 numerical limitation set forth in paragraph (1).”.

1 (b) SUPPLEMENTAL PETITION FEE.—Section
2 204(a)(1) of the Immigration and Nationality Act (8
3 U.S.C. 1154(a)(1)) is amended—

4 (1) in subparagraph (E), by adding at the end
5 the following: “Such petition shall be accompanied
6 by a supplemental petition fee in the amount of
7 \$500.”; and

8 (2) in subparagraph (F), by adding at the end
9 the following: “Such petition shall be accompanied
10 by a supplemental petition fee in the amount of
11 \$500.”.

12 (c) ADJUSTMENT OF STATUS.—

13 (1) IN GENERAL.—Section 245(a) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1255(a)) is
15 amended to read as follows:

16 “(a)(1) The status of an alien who was inspected and
17 admitted or paroled into the United States or the status
18 of any other alien having an approved petition for classi-
19 fication under subparagraph (A)(iii), (A)(iv), (B)(ii), or
20 (B)(iii) of section 204(a)(1) may be adjusted by the Sec-
21 retary of Homeland Security or the Attorney General, in
22 the discretion of the Secretary or Attorney General, and
23 under such regulations as the Secretary or Attorney Gen-
24 eral may prescribe, to that of an alien lawfully admitted
25 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

1 forth in section 245(a)(1)(C) of the Immigration and
2 Nationality Act (8 U.S.C. 1255(a)(1)(C)), as amend-
3 ed by paragraph (1).

4 (d) RECAPTURE OF UNUSED H-1B VISA NUM-
5 BERS.—Section 214(g) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1184(g)) is amended—

7 (1) by redesignating paragraphs (9) through
8 (11) as paragraphs (10) through (12), respectively;
9 and

10 (2) by inserting after paragraph (8) the fol-
11 lowing:

12 “(9)(A) If the numerical limitation in para-
13 graph (1)(A) for fiscal year 2006 or a subsequent
14 fiscal year has been reached, such numerical limita-
15 tion shall be supplemented in a number equal to the
16 lesser of—

17 “(i) the cumulative total number of visas
18 that were available in all prior fiscal years sub-
19 sequent to fiscal year 1991, and not issued for
20 each such fiscal year or any subsequent fiscal
21 year; and

22 “(ii) 30,000.

23 “(B) Any petition filed after the numerical limi-
24 tation set forth in paragraph (1)(A) has been
25 reached for that fiscal year, and seeking an H-1B

1 visa number recaptured under subparagraph (A) of
2 this paragraph, shall be accompanied by an H-1B
3 recapture fee in the amount of \$500.”.

4 (e) CONFORMING AMENDMENT.—Section 286(m) of
5 the Immigration and Nationality Act (8 U.S.C. 1356(m))
6 is amended by inserting “, including those fees provided
7 for in subparagraphs (E) and (F) of section 204(a)(1) and
8 subsections (c)(15) and (g)(9)(B) of section 214,” after
9 “all adjudication fees”.

10 (f) EXPENDITURE LIMITATION.—Amounts collected
11 under subparagraphs (E) and (F) of section 204(a)(1)
12 and subsections (c)(15) and (g)(9)(B) of section 214 of
13 the Immigration and Nationality Act, as amended by this
14 Act, may not be expended unless specifically appropriated
15 by an Act of Congress.

16 **SEC. 8002. FEES WITH RESPECT TO IMMIGRATION SERV-**
17 **ICES FOR INTRACOMPANY TRANSFEREES.**

18 Section 214(c) of the Immigration and Nationality
19 Act (8 U.S.C. 1184(c)) is amended by adding at the end
20 the following:

21 “(15)(A) The Secretary of State shall impose a fee
22 on an employer when an alien files an application abroad
23 for a visa authorizing initial admission to the United
24 States as a nonimmigrant described in section
25 101(a)(15)(L) in order to be employed by the employer,

1 if the alien is covered under a blanket petition described
2 in paragraph (2)(A).

3 “(B) The Secretary of Homeland Security shall im-
4 pose a fee on an employer filing a petition under para-
5 graph (1) initially to grant an alien nonimmigrant status
6 described in section 101(a)(15)(L) or to extend for the
7 first time the stay of an alien having such status.

8 “(C) The amount of the fee imposed under subpara-
9 graph (A) or (B) shall be \$750.

10 “(D) The fees imposed under subparagraphs (A) and
11 (B) shall only apply to principal aliens and not to spouses
12 or children who are accompanying or following to join such
13 principal aliens.

14 “(E)(i) An employer may not require an alien who
15 is the beneficiary of the visa or petition for which a fee
16 is imposed under this paragraph to reimburse, or other-
17 wise compensate, the employer for part or all of the cost
18 of such fee.

19 “(ii) Section 274A(g)(2) shall apply to a violation of
20 clause (i) in the same manner as it applies to a violation
21 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