

109TH CONGRESS
1ST SESSION

S. 1932

AN ACT

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”.

1 SEC. 2. TABLE OF CONTENTS.

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

- Sec. 1. Short title.
Sec. 2. Table of Contents.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

- Sec. 1001. Short title.

Subtitle A—Commodity Programs

- Sec. 1101. Reduction of commodity program payments.
Sec. 1102. Forfeiture penalty for nonrecourse sugar loans.
Sec. 1103. Cotton competitiveness provisions.
Sec. 1104. National dairy market loss payments.
Sec. 1105. Advance direct payments.

Subtitle B—Conservation

- Sec. 1201. Conservation reserve program.
Sec. 1202. Conservation security program.
Sec. 1203. Environmental quality incentives program.

Subtitle C—Miscellaneous

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

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

Subtitle A—Merger of the Deposit Insurance Funds

- Sec. 2001. Short title.
Sec. 2002. Definitions.
Sec. 2003. Merger of BIF and SAIF.
Sec. 2004. Establishment of the Deposit Insurance Fund.
Sec. 2005. Technical and conforming amendments to the Federal Deposit Insurance Act.
Sec. 2006. Other technical and conforming amendments.
Sec. 2007. Effective date.

Subtitle B—Deposit Insurance Modernization and Improvement

- Sec. 2011. Short title.
Sec. 2012. Changes to Federal deposit insurance coverage.
Sec. 2013. Designated reserve ratio.
Sec. 2014. Assessment credits and dividends.
Sec. 2015. Assessments-related records retention and statute of limitations.
Sec. 2016. Increase in fees for late assessment payments.
Sec. 2017. Regulations required.
Sec. 2018. Studies of potential changes to the Federal deposit insurance system.
Sec. 2019. Effective date.

Subtitle C—FHA Asset Disposition

- Sec. 2021. Short title.
- Sec. 2022. Definitions.
- Sec. 2023. Appropriated funds requirement for below market sales.
- Sec. 2024. Up-front grants.
- Sec. 2025. Authorization of appropriations.

Subtitle D—Adaptive Housing Assistance

- Sec. 2031. Short title.
- Sec. 2032. Adoptive housing assistance for disabled veterans residing temporarily in housing owned by a family member.
- Sec. 2033. GAO reports.

TITLE III—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

- Sec. 3001. Short title.
- Sec. 3002. Analog spectrum recovery; hard deadline.
- Sec. 3003. Auction of recovered spectrum.
- Sec. 3004. Supplemental license fees.
- Sec. 3005. Digital Transition and Public Safety Fund.
- Sec. 3005A. Communication system grants.
- Sec. 3006. Essential air service program.

TITLE IV—ENERGY AND NATURAL RESOURCES

- Sec. 4001. Oil and gas leasing program.

TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

- Sec. 5001. Technical corrections to SAFETEA-LU.

TITLE VI—COMMITTEE ON FINANCE

- Sec. 6000. Amendments to Social Security Act.

Subtitle A—Medicaid

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS UNDER MEDICAID

- Sec. 6001. Pharmacy reimbursement.
- Sec. 6002. Increase in rebates for covered outpatient drugs.
- Sec. 6003. Improved regulation of authorized generic drugs.
- Sec. 6004. Collection of rebates for certain physician administered drugs.

CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

- Sec. 6011. Reform of Medicaid asset transfer rules.
- Sec. 6012. State long-term care partnerships.

CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

- Sec. 6021. Enhancing third party recovery.
- Sec. 6022. Limitation on use of contingency fee arrangements.
- Sec. 6023. Encouraging the enactment of State False Claims Acts.
- Sec. 6024. Employee education about False Claims Recovery.
- Sec. 6025. Prohibition on restocking and double billing of prescription drugs.
- Sec. 6026. Medicaid Integrity Program.

CHAPTER 4—STATE FINANCING UNDER MEDICAID

- Sec. 6031. Reforms of targeted case management.
- Sec. 6032. Temporary Federal matching payments for Federal assistance.
- Sec. 6033. Managed care organization provider tax reform.
- Sec. 6034. Inclusion of podiatrists as physicians.
- Sec. 6035. DSH allotment for the District of Columbia.
- Sec. 6036. Demonstration project regarding Medicaid reimbursement for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases.
- Sec. 6037. Limitation on severe reduction in the Medicaid FMAP for fiscal year 2006.
- Sec. 6038. Extension of prescription drug rebates to enrollees in Medicaid managed care organizations.
- Sec. 6039. Extension of the Medicare Part A and B payment holiday.
- Sec. 6039A. Sense of the Senate.
- Sec. 6039B. Authority to continue providing certain adult day health care services or medical adult day care services.
- Sec. 6039C. Demonstration project regarding Medicaid coverage of low-income HIV-infected individuals.
- Sec. 6039D. Additional increase in rebate for single source and innovator multiple source drugs.

CHAPTER 5—IMPROVING THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS

SUBCHAPTER A—FAMILY OPPORTUNITY ACT

- Sec. 6041. Short title of subchapter.
- Sec. 6042. Opportunity for families of disabled children to purchase Medicaid coverage for such children.
- Sec. 6043. Demonstration projects regarding home and community-based alternatives to psychiatric residential treatment facilities for children.
- Sec. 6044. Development and support of family-to-family health information centers.
- Sec. 6045. Restoration of Medicaid eligibility for certain SSI beneficiaries.

SUBCHAPTER B—STATE CHILDREN'S HEALTH INSURANCE PROGRAM

- Sec. 6051. Rules for availability, redistribution, and extended availability of allotments for fiscal years 2003, 2004, and 2005.
- Sec. 6052. Authority to use up to 10 percent of fiscal year 2006 and 2007 allotments for outreach.
- Sec. 6053. Prohibition against covering nonpregnant childless adults with SCHIP funds.
- Sec. 6054. Continued authority for qualifying States to use certain funds for Medicaid expenditures.
- Sec. 6055. Grants to promote innovative outreach and enrollment under Medicaid and SCHIP.

SUBCHAPTER C—MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION

- Sec. 6061. Money Follows the Person Rebalancing Demonstration.

CHAPTER 6—OPTION FOR HURRICANE KATRINA DISASTER STATES TO DELAY APPLICATION

Sec. 6071. Option for Hurricane Katrina disaster States to delay application.

Subtitle B—Medicare

- Sec. 6101. Improvements to the Medicare-dependent hospital (MDH) program.
- Sec. 6102. Reduction in payments to skilled nursing facilities for bad debt.
- Sec. 6103. Two-year extension of the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.
- Sec. 6104. Prohibition on physician self referrals to physician owned, limited service hospitals.
- Sec. 6105. Minimum update for physicians' services for 2006.
- Sec. 6106. One-year extension of hold harmless provisions for small rural hospitals and sole community hospitals under the prospective payment system for hospital outpatient department services.
- Sec. 6107. Update to the composite rate component of the basic case-mix adjusted prospective payment system for dialysis services.
- Sec. 6108. One-year extension of moratorium on therapy caps.
- Sec. 6109. Transfer of title of certain DME to patient after 13-month rental.
- Sec. 6110. Establishment of Medicare value-based purchasing programs.
- Sec. 6111. Phase-out of risk adjustment budget neutrality in determining the amount of payments to Medicare Advantage organizations.
- Sec. 6112. Elimination of Medicare Advantage regional plan stabilization fund.
- Sec. 6113. Rural PACE provider grant program.
- Sec. 6114. Waiver of part B late enrollment penalty for certain international volunteers.
- Sec. 6115. Delivery of services at federally qualified health centers.
- Sec. 6116. Technical correction regarding purchase agreements for power-driven wheelchairs.
- Sec. 6117. Medicare coverage of ultrasound screening for abdominal aortic aneurysms; national educational and information campaign.
- Sec. 6118. Improving patient access to, and utilization of, colorectal cancer screening under medicare.
- Sec. 6119. Coverage of marriage and family therapist services and mental health counselor services under part b of the medicare program.
- Sec. 6120. Quality measurement systems amendments.

TITLE VII—COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Subtitle A—Education Provisions

CHAPTER 1—EDUCATION

- Sec. 7101. Provisional grant assistance program.
- Sec. 7102. National smart grants.
- Sec. 7103. Loan limits.
- Sec. 7104. Plus loan interest rates and zero special allowance payment.
- Sec. 7105. Reduction of lender insurance reimbursement rates.
- Sec. 7106. Guaranty agency origination fee.
- Sec. 7107. Deferral of student loans for military service.
- Sec. 7108. Recovery through consolidation.
- Sec. 7109. Single holder rule.
- Sec. 7110. Default reduction program.
- Sec. 7111. Requirements for disbursements of student loans.

- Sec. 7112. Special insurance and reinsurance rules.
- Sec. 7113. School as lender moratorium.
- Sec. 7114. Permanent reduction of special allowance payments for loans from the proceeds of tax exempt issues.
- Sec. 7115. Special allowances.
- Sec. 7116. Origination fee.
- Sec. 7117. Income contingent repayment for public sector employees.
- Sec. 7118. Family contribution for dependent students.
- Sec. 7119. Family contribution for independent students without dependents other than a spouse.
- Sec. 7120. Family contribution for independent students with dependents other than a spouse.
- Sec. 7121. Regulations; updated tables.
- Sec. 7122. Simplified need test and automatic zero improvements.
- Sec. 7123. Loan forgiveness for teachers.
- Sec. 7124. Effective date.

CHAPTER 2—HURRICANE KATRINA HIGHER EDUCATION RECOVERY

- Sec. 7151. Short title.
- Sec. 7152. Definitions.
- Sec. 7153. Waiver authority and modifications to certain provisions of the Higher Education Act of 1965.
- Sec. 7154. General waiver authority and required consultation.
- Sec. 7155. Notice of waivers, modifications, or extensions.
- Sec. 7156. Regulatory requirements inapplicable.
- Sec. 7157. Department of Education Inspector General audit and report.
- Sec. 7158. Sunset provision.

Subtitle B—Pension Benefit Guaranty Corporation Premiums

- Sec. 7201. Amendments to the Employee Retirement Income Security Act of 1974.

Subtitle C—Higher Education Reauthorization

CHAPTER 1—SHORT TITLE; REFERENCES; GENERAL EFFECTIVE DATE

- Sec. 7301. Short title.
- Sec. 7302. References.
- Sec. 7303. General effective date.

CHAPTER 2—GENERAL PROVISIONS

- Sec. 7311. Additional definitions.
- Sec. 7312. General definition of institution of higher education.
- Sec. 7313. Definition of institution of higher education for purposes of title IV programs.
- Sec. 7314. Protection of student speech and association rights.
- Sec. 7315. National advisory committee on institutional quality and integrity.
- Sec. 7316. Drug and alcohol abuse prevention.
- Sec. 7317. Prior rights and obligations.
- Sec. 7318. Cost of higher education.
- Sec. 7319. Performance-based organization for the delivery of Federal student financial assistance.
- Sec. 7320. Procurement flexibility.

CHAPTER 3—TEACHER QUALITY ENHANCEMENT

Sec. 7331. Teacher quality enhancement grants for States and partnerships.

CHAPTER 4—INSTITUTIONAL AID

- Sec. 7341. Program purpose.
- Sec. 7342. Definitions; eligibility.
- Sec. 7343. American Indian tribally controlled colleges and universities.
- Sec. 7344. Alaska Native and Native Hawaiian-serving institutions.
- Sec. 7345. Native American-serving, nontribal institutions.
- Sec. 7346. Part B definitions.
- Sec. 7347. Grants to institutions.
- Sec. 7348. Allotments to institutions.
- Sec. 7349. Professional or graduate institutions.
- Sec. 7350. Authorization of appropriations.
- Sec. 7351. Technical corrections.

CHAPTER 5—STUDENT ASSISTANCE

SUBCHAPTER A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

- Sec. 7361. Federal Pell Grants.
- Sec. 7362. Federal TRIO Programs.
- Sec. 7363. Gaining Early Awareness and Readiness for Undergraduate Programs.
- Sec. 7364. Academic Achievement Incentive Scholarships.
- Sec. 7365. Federal Supplemental Educational Opportunity Grants.
- Sec. 7366. Leveraging Educational Assistance Partnership Program.
- Sec. 7367. Special programs for students whose families are engaged in migrant and seasonal farmwork.
- Sec. 7368. Robert C. Byrd Honors Scholarship Program.
- Sec. 7369. Child care access means parents in school.
- Sec. 7370. Learning anytime anywhere partnerships.

SUBCHAPTER B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

- Sec. 7381. Extension of authorities.
- Sec. 7382. Federal payments to reduce student interest costs.
- Sec. 7383. Federal consolidation loans.
- Sec. 7384. Default reduction program.
- Sec. 7385. Requirements for disbursement of student loans.
- Sec. 7386. Reports to credit bureaus and institutions of higher education.
- Sec. 7387. Common forms and formats.
- Sec. 7388. Student loan information by eligible borrowers.
- Sec. 7389. Consumer education information.
- Sec. 7390. Definition of eligible lender.
- Sec. 7390A. Repayment by the Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow.

SUBCHAPTER C—FEDERAL WORK-STUDY PROGRAMS

- Sec. 7391. Authorization of appropriations.
- Sec. 7392. Allowance for books and supplies.
- Sec. 7393. Grants for Federal work-study programs.

- Sec. 7394. Job location and development programs.
- Sec. 7395. Work colleges.

SUBCHAPTER D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

- Sec. 7401. Funds for administrative expenses.

SUBCHAPTER E—FEDERAL PERKINS LOANS

- Sec. 7411. Program authority.
- Sec. 7412. Terms of loans.
- Sec. 7413. Cancellation of loans for certain public service.
- Sec. 7414. Federal capital contribution recovery.

SUBCHAPTER F—NEED ANALYSIS

- Sec. 7421. Cost of attendance.
- Sec. 7422. Discretion of student financial aid administrators.
- Sec. 7423. Definitions.

SUBCHAPTER G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

- Sec. 7431. Definitions.
- Sec. 7432. Compliance calendar.
- Sec. 7433. Forms and regulations.
- Sec. 7434. Student eligibility.
- Sec. 7435. Statute of limitations and State court judgments.
- Sec. 7436. Institutional refunds.
- Sec. 7437. Institutional and financial assistance for students.
- Sec. 7438. National student loan data system.
- Sec. 7439. Early awareness of financial aid eligibility.
- Sec. 7440. College access initiative.
- Sec. 7441. Program participation agreements.
- Sec. 7442. Regulatory relief and improvement.
- Sec. 7443. Transfer of allotments.
- Sec. 7444. Wage garnishment requirement.
- Sec. 7445. Purpose of administrative payments.
- Sec. 7446. Advisory committee on student financial assistance.
- Sec. 7447. Regional meetings.
- Sec. 7448. Year 2000 requirements at the department.

SUBCHAPTER H—PROGRAM INTEGRITY

- Sec. 7451. Recognition of accrediting agency or association.
- Sec. 7452. Administrative capacity standard.
- Sec. 7453. Program review and data.

CHAPTER 6—DEVELOPING INSTITUTIONS

- Sec. 7501. Definitions.
- Sec. 7502. Authorized activities.
- Sec. 7503. Duration of grant.
- Sec. 7504. Postbaccalaureate opportunities for Hispanic Americans.
- Sec. 7505. Applications.
- Sec. 7506. Cooperative arrangements.
- Sec. 7507. Authorization of appropriations.

CHAPTER 7—INTERNATIONAL EDUCATION PROGRAMS

- Sec. 7601. Findings.
- Sec. 7602. Graduate and undergraduate language and area centers and programs.
- Sec. 7603. Undergraduate international studies and foreign language programs.
- Sec. 7604. Research; studies.
- Sec. 7605. Technological innovation and cooperation for foreign information access.
- Sec. 7606. Selection of certain grant recipients.
- Sec. 7607. American overseas research centers.
- Sec. 7608. Authorization of appropriations for international and foreign language studies.
- Sec. 7609. Centers for international business education.
- Sec. 7610. Education and training programs.
- Sec. 7611. Authorization of appropriations for business and international education programs.
- Sec. 7612. Minority foreign service professional development program.
- Sec. 7613. Institutional development.
- Sec. 7614. Study abroad program.
- Sec. 7615. Advanced degree in international relations.
- Sec. 7616. Internships.
- Sec. 7617. Financial assistance.
- Sec. 7618. Report.
- Sec. 7619. Gifts and donations.
- Sec. 7620. Authorization of appropriations for the institute for international public policy.
- Sec. 7621. Definitions.
- Sec. 7622. Assessment and enforcement.

CHAPTER 8—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

- Sec. 7701. Purpose.
- Sec. 7702. Allocation of Jacob K. Javits fellowships.
- Sec. 7703. Stipends.
- Sec. 7704. Authorization of appropriations for the Jacob K. Javits Fellowship Program.
- Sec. 7705. Institutional eligibility under the graduate assistance in areas of national need program.
- Sec. 7706. Awards to graduate students.
- Sec. 7707. Additional assistance for cost of education.
- Sec. 7708. Authorization of appropriations for the graduate assistance in areas of national need program.
- Sec. 7709. Authorization of appropriations for the Thurgood Marshall Legal Educational Opportunity Program.
- Sec. 7710. Fund for the improvement of postsecondary education.
- Sec. 7711. Special projects.
- Sec. 7712. Authorization of appropriations for the fund for the improvement of postsecondary education.
- Sec. 7713. Repeal of the urban community service program.
- Sec. 7714. Grants authorized for demonstration projects to ensure students with disabilities receive a quality higher education.
- Sec. 7715. Applications for demonstration projects to ensure students with disabilities receive a quality higher education.
- Sec. 7716. Authorization of appropriations for the demonstration projects to ensure students with disabilities receive a quality higher education.

CHAPTER 9—MISCELLANEOUS

Sec. 7801. Miscellaneous.

CHAPTER 10—AMENDMENTS TO OTHER LAWS

SUBCHAPTER A—EDUCATION OF THE DEAF ACT OF 1986

- Sec. 7901. Laurent Clerc National Deaf Education Center.
 Sec. 7902. Agreement with Gallaudet University.
 Sec. 7903. Agreement for the National Technical Institute for the Deaf.
 Sec. 7904. Cultural experiences grants.
 Sec. 7905. Audit.
 Sec. 7906. Reports.
 Sec. 7907. Monitoring, evaluation, and reporting.
 Sec. 7908. Liaison for educational programs.
 Sec. 7909. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf.
 Sec. 7910. Oversight and effect of agreements.
 Sec. 7911. International students.
 Sec. 7912. Research priorities.
 Sec. 7913. Authorization of appropriations.

SUBCHAPTER B—UNITED STATES INSTITUTE OF PEACE ACT

Sec. 7921. United States Institute of Peace Act.

SUBCHAPTER C—THE HIGHER EDUCATION AMENDMENTS OF 1998

- Sec. 7931. Repeals.
 Sec. 7932. Grants to States for workplace and community transition training for incarcerated youth offenders.

SUBCHAPTER D—INDIAN EDUCATION

PART I—TRIBAL COLLEGES AND UNIVERSITIES

Sec. 7941. Reauthorization of the Tribally Controlled College or University Assistance Act of 1978.

PART II—NAVAJO HIGHER EDUCATION

- Sec. 7945. Short title.
 Sec. 7946. Reauthorization of Navajo Community College Act.

Subtitle D—Hurricane Relief

- Sec. 7947. Findings.
 Sec. 7948. Immediate aid to restart school operations.
 Sec. 7949. Hold harmless for local educational agencies serving major disaster areas.
 Sec. 7950. Teacher and paraprofessional reciprocity; delay.
 Sec. 7951. Assistance for homeless youth.
 Sec. 7952. Temporary emergency impact aid for displaced students.
 Sec. 7953. Origination fees for student loans.
 Sec. 7954. Authorization and appropriation of funds.
 Sec. 7955. Sunset provision.

TITLE VIII—COMMITTEE ON THE JUDICIARY

- Sec. 8001. Recapture of unused visa numbers.
- Sec. 8002. Fees with respect to immigration services for intracompany transferees.
- Sec. 8003. Justice programs.
- Sec. 8004. Copyright program.

DIVISION A—AMTRAK REAUTHORIZATION

- Sec. 1. Short title.
- Sec. 2. Amendment of Title 49, United States Code.

TITLE I—AUTHORIZATIONS

- Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.
- Sec. 102. Authorization for the Federal Railroad Administration.
- Sec. 103. Repayment of long-term debt and capital leases.
- Sec. 104. Excess railroad retirement.
- Sec. 105. Other authorizations.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

- Sec. 201. National railroad passenger transportation system defined.
- Sec. 202. Amtrak board of directors.
- Sec. 203. Establishment of improved financial accounting system.
- Sec. 204. Development of 5-year financial plan.
- Sec. 205. Establishment of grant process.
- Sec. 206. State-supported routes.
- Sec. 207. Independent auditor to establish methodologies for Amtrak route and service planning decisions.
- Sec. 208. Metrics and standards.
- Sec. 209. Passenger train performance.
- Sec. 210. Long distance routes.
- Sec. 211. Alternate passenger rail service program.
- Sec. 212. Employee transition assistance.
- Sec. 213. Northeast corridor state-of-good-repair plan.
- Sec. 214. Northeast corridor infrastructure and operations improvements.
- Sec. 215. Restructuring long-term debt and capital leases.
- Sec. 216. Study of compliance requirements at existing intercity rail stations.
- Sec. 217. Incentive pay.
- Sec. 218. Access to Amtrak equipment and services.
- Sec. 219. General Amtrak provisions.
- Sec. 220. Private sector funding of passenger trains.
- Sec. 221. On-board service improvements.
- Sec. 222. Amtrak management accountability.

TITLE III—INTERCITY PASSENGER RAIL POLICY

- Sec. 301. Capital assistance for intercity passenger rail service.
- Sec. 302. State rail plans.
- Sec. 303. Next generation corridor train equipment pool.
- Sec. 304. Federal rail policy.
- Sec. 305. Rail cooperation research program.

TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

- Sec. 401. Systemwide Amtrak security upgrades.

Sec. 402. Fire and life-safety improvements.

Sec. 403. Amtrak plan to assist families of passengers involved in rail passenger accidents.

Sec. 404. Northern border rail passenger report.

Sec. 405. Passenger, baggage, and cargo screening.

1 **TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

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

5 This title may be cited as the “Agricultural Reconciliation Act of 2005”.

7 **Subtitle A—Commodity Programs**

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

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

14 **“SEC. 1619. REDUCTION OF COMMODITY PROGRAM PAYMENTS.**

16 **“(a) DEFINITION OF COMMODITY PROGRAM PAYMENTS.—**In this section, the term ‘commodity program payments’ means—

19 “(1) direct payments;

20 “(2) counter-cyclical payments; and

21 “(3) payments and benefits associated with the
22 loan program, including gains from the forfeiture of
23 any commodity pledged as collateral for loans and

1 gains from in-kind payments described in section
2 166 of the Federal Agriculture Improvement and
3 Reform Act of 1996 (7 U.S.C. 7286), as determined
4 by the Secretary.

5 “(b) REDUCTION.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of this title, for each of the 2006 through
8 2010 crop years for wheat, corn, grain sorghum,
9 barley, oats, upland cotton, extra long staple cotton,
10 rice, soybeans, other oilseeds, wool, mohair, honey,
11 dry peas, lentils, small chickpeas, unshorn pelts, si-
12 lage, hay, and peanuts, the Secretary shall reduce
13 the total amount of commodity program payments
14 received by the producers on a farm for those com-
15 modities for that crop year by an amount equal to
16 2.5 percent of that amount.

17 “(2) MILK.—During the period beginning on
18 October 1, 2005, and ending on September 30,
19 2007, the Secretary shall reduce the total amount of
20 payments received by producers pursuant to section
21 1502 by an amount equal to 2.5 percent of that
22 amount.”.

23 (b) COMMODITIES.—

24 (1) IN GENERAL.—Title I of the Farm Security
25 and Rural Investment Act of 2002 (7 U.S.C. 7901

1 et seq.), including each amendment made by that
 2 title, is amended by striking “2007” each place it
 3 appears (other than in sections 1104(f), 1304(g),
 4 and 1307(a)(6) and amendments made by this title)
 5 and inserting “2011”.

6 (2) COTTON.—Sections 1204(e)(1) and 1208(a)
 7 of the Farm Security and Rural Investment Act of
 8 2002 (7 U.S.C. 7934(e)(1), 7938(a)) are amended
 9 by striking “2008” each place it appears and insert-
 10 ing “2012”.

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

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

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

17 (2) by inserting after subsection (g) the fol-
 18 lowing:

19 “(h) FORFEITURE PENALTY.—

20 “(1) IN GENERAL.—In the case of each of the
 21 2006 through 2010 crops of sugar beets and sugar-
 22 cane, a penalty shall be assessed on the forfeiture of
 23 any sugar pledged as collateral for a nonrecourse
 24 loan under this section.

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

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

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

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

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

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

21 (2) by striking subsection (a);

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

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

25 (A) in paragraph (1)—

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

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

7 (B) in paragraph (4), by striking “sub-
8 section (c)” and inserting “subsection (b)”; and
9 (5) in subsection (b)(2) (as so redesignated), by
10 striking “subsection (b)” and inserting “subsection
11 (a)”.

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

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

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

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

22 “(3)(A) during the period beginning on the first
23 day of the month the producers on a dairy farm
24 enter into a contract under this section and ending
25 on September 30, 2005, 45 percent; and

1 “(B) during the period beginning on October 1,
2 2005, and ending on September 30, 2007, 34 per-
3 cent.”.

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

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

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

13 (2) by striking subsection (h).

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

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

23 (b) PEANUTS.—Section 1303(e)(2) of the Farm Se-
24 curity and Rural Investment Act of 2002 (7 U.S.C.
25 7953(e)(2)) is amended in the first sentence by striking

1 “2007 crops years” and inserting “2005 crop years, up
 2 to 40 percent of the direct payment for the 2006 crop
 3 year, and up to 29 percent of the direct payment for any
 4 of the 2007 through 2011 crop years,”.

5 **Subtitle B—Conservation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PRO-**
21 **GRAM.**

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

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

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

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

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

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

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

13 **Subtitle C—Miscellaneous**

14 **SEC. 1301. INITIATIVE FOR FUTURE AGRICULTURE AND** 15 **FOOD SYSTEMS.**

16 (a) IN GENERAL.—Section 401(b)(3) of the Agricul-
 17 tural Research, Extension, and Education Reform Act of
 18 1998 (7 U.S.C. 7621(b)(3)) is amended—

19 (1) in subparagraph (C), by striking
 20 “\$160,000,000; and” and inserting
 21 “\$104,000,000;”;

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

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

1 “(D) on October 1, 2006, and each Octo-
2 ber 1 thereafter through October 1, 2009,
3 \$130,000,000; and”;

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

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

8 **TITLE II—COMMITTEE ON BANK-**
9 **ING, HOUSING, AND URBAN**
10 **AFFAIRS**

11 **Subtitle A—Merger of the Deposit**
12 **Insurance Funds**

13 **SEC. 2001. SHORT TITLE.**

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

16 **SEC. 2002. DEFINITIONS.**

17 In this subtitle—

18 (1) the term “Administration” means the Na-
19 tional Credit Union Administration;

20 (2) the term “Board” means the Board of Di-
21 rectors of the Federal Deposit Insurance Corpora-
22 tion (other than in connection with the National
23 Credit Union Administration Board);

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

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

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

9 (6) the terms “depository institution” and “in-
10 sured depository institution” have the same mean-
11 ings as in section 3 of the Federal Deposit Insur-
12 ance Act; and

13 (7) the term “reserve ratio” means the ratio of
14 the fund balance of the Deposit Insurance Fund to
15 aggregate estimated insured deposits held in all in-
16 sured depository institutions.

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

18 (a) IN GENERAL.—

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

22 (2) DISPOSITION OF ASSETS AND LIABIL-
23 ITIES.—All assets and liabilities of the Bank Insur-
24 ance Fund and the Savings Association Insurance

1 Fund shall be transferred to the Deposit Insurance
2 Fund.

3 (3) NO SEPARATE EXISTENCE.—The separate
4 existence of the Bank Insurance Fund and the Sav-
5 ings Association Insurance Fund shall cease on the
6 effective date of the merger thereof under this sec-
7 tion.

8 (b) REPEAL OF OUTDATED MERGER PROVISION.—
9 Section 2704 of the Deposit Insurance Funds Act of 1996
10 (12 U.S.C. 1821 note) is repealed.

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

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

16 (1) by redesignating subparagraph (B) as sub-
17 paragraph (C);

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

20 “(A) ESTABLISHMENT.—There is estab-
21 lished the Deposit Insurance Fund, which the
22 Corporation shall—

23 “(i) maintain and administer;

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

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

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

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

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

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

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

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

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

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

4 “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-
5 SURANCE FUND.—

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

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

12 (A) by striking subsection (l);

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

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

17 “(2) ASSESSMENTS.—

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

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

1 “(i) the estimated operating expenses
2 of the Deposit Insurance Fund;

3 “(ii) the estimated case resolution ex-
4 penditures and income of the Deposit In-
5 surance Fund;

6 “(iii) the projected effects of assess-
7 ments on the earnings and capital of in-
8 sured depository institutions;

9 “(iv) the need to maintain a risk-
10 based assessment system under paragraph
11 (1); and

12 “(v) any other factors that the Board
13 of Directors may determine to be appro-
14 priate.

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

19 “(D) NEWLY INSURED INSTITUTIONS.—To
20 facilitate the administration of this section, the
21 Board of Directors may waive the requirements
22 of subsection (c)(1) and subparagraph (A) of
23 this paragraph for any assessment period in
24 which a depository institution becomes in-
25 sured.”.

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

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

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

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

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

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

15 “(B) includes any former savings associa-
16 tion.”;

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

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

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

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

2 (A) in subparagraph (A), by striking “re-
3 serve ratios in the Bank Insurance Fund and
4 the Savings Association Insurance Fund as re-
5 quired by section 7” and inserting “the reserve
6 ratio of the Deposit Insurance Fund”;

7 (B) by striking subparagraph (B) and in-
8 serting the following:

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

13 (C) by striking “UNINSURED INSTITU-
14 TIONS.—” and all that follows through “GEN-
15 ERAL.—” and inserting “UNINSURED INSTITU-
16 TIONS.—”; and

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

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

21 (A) in paragraph (5)(A), by striking
22 “Bank Insurance Fund or the Savings Associa-
23 tion Insurance Fund” and inserting “Deposit
24 Insurance Fund”;

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

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

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

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

9 (A) by striking “in July”; and

10 (B) by striking “in January”;

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

12 (A) in paragraph (1)—

13 (i) in subparagraph (B)(ii), by strik-
14 ing “institution’s semiannual assessment”
15 and inserting “assessments for that insti-
16 tution under subsection (b)”;

17 (ii) in subparagraph (C)—

18 (I) by striking “a depository in-
19 stitution’s semiannual assessment”
20 and inserting “assessments for a de-
21 pository institution under subsection
22 (b)”;

23 (II) by striking “deposit insur-
24 ance fund” each place that term ap-

1 pears and inserting “Deposit Insur-
2 ance Fund”;

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

6 (C) by striking paragraph (4) and redesignig-
7 nating paragraphs (5) through (7) as para-
8 graphs (4) through (6), respectively;

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

10 (i) by striking “any such assessment”
11 and inserting “any such assessment is nec-
12 essary”;

13 (ii) by striking subparagraph (B);

14 (iii) in subparagraph (A)—

15 (I) by striking “(A) is nec-
16 essary—”;

17 (II) by striking “Bank Insurance
18 Fund members” and inserting “in-
19 sured depository institutions”; and

20 (III) by redesignating clauses (i),
21 (ii), and (iii) as subparagraphs (A),
22 (B), and (C), respectively, and moving
23 the margins 2 ems to the left; and

24 (iv) in subparagraph (C) (as redesignig-
25 nated)—

1 (I) by inserting “that” before
2 “the Corporation”; and

3 (II) by striking “; and” and in-
4 serting a period; and

5 (E) in paragraph (6), as so redesignated,
6 by striking “semiannual assessment” and in-
7 serting “assessment under subsection (b)”;

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

9 (A) in paragraph (1), by striking “institu-
10 tion’s semiannual assessment” and inserting
11 “assessments for that institution under sub-
12 section (b)”;

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

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

17 (11) in section 7(j)(7)(F) (12 U.S.C.
18 1817(j)(7)(F)), by striking “Bank Insurance Fund
19 or the Savings Association Insurance Fund” and in-
20 serting “Deposit Insurance Fund”;

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

22 (A) in subsection (p), by striking “semi-
23 annual”;

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

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

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

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

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

13 (A) by striking subparagraph (B);

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

16 (C) in subparagraph (B) (as redesignated),
17 by striking “subparagraphs (A) and (B)” and
18 inserting “subparagraph (A)”;

19 (16) in section 11(p)(2)(B) (12 U.S.C.
20 1821(p)(2)(B)), by striking “institution, any” and
21 inserting “institution, the”;

22 (17) in section 12(f)(4)(E)(iv) (12 U.S.C.
23 1822(f)(4)(E)(iv)), by striking “Federal deposit in-
24 surance funds” and inserting “the Deposit Insur-

1 ance Fund, or any predecessor deposit insurance
2 fund”;

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

4 (A) by striking “deposit insurance fund”
5 each place that term appears and inserting
6 “Deposit Insurance Fund”;

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

11 (C) in subsection (c)(4)(E)—

12 (i) in the subparagraph heading, by
13 striking “FUNDS” and inserting “FUND”;
14 and

15 (ii) in clause (i), by striking “any in-
16 surance fund” and inserting “the Deposit
17 Insurance Fund”;

18 (D) in subsection (c)(4)(G)(ii)—

19 (i) by striking “appropriate insurance
20 fund” and inserting “Deposit Insurance
21 Fund”;

22 (ii) by striking “the members of the
23 insurance fund (of which such institution
24 is a member)” and inserting “insured de-
25 pository institutions”;

1 (iii) by striking “each member’s” and
2 inserting “each insured depository institu-
3 tion’s”;

4 (iv) by striking “the member’s” each
5 place that term appears and inserting “the
6 institution’s”; and

7 (v) in subclause (II), by striking
8 “semiannual” and inserting “applicable as-
9 sessment”;

10 (E) in subsection (c), by striking para-
11 graph (11);

12 (F) in subsection (h), by striking “Bank
13 Insurance Fund” and inserting “Deposit Insur-
14 ance Fund”;

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

18 (H) in subsection (k)(5)—

19 (i) in subparagraph (A), by striking
20 “Savings Association Insurance Fund
21 members” and inserting “savings associa-
22 tions”;

23 (ii) by striking “member’s” each place
24 that term appears and inserting “savings
25 association’s”; and

1 (iii) by striking “member” each place
2 that term appears and inserting “savings
3 association”;

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

6 (A) by striking “Bank Insurance Fund or
7 the Savings Association Insurance Fund” and
8 inserting “Deposit Insurance Fund”; and

9 (B) by striking “each such fund” and in-
10 sserting “the Deposit Insurance Fund”;

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

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

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

18 (B) by striking paragraph (3);

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

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

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

1 (C) by striking “Bank Insurance Fund”
2 each place that term appears (other than in
3 connection with a reference to a Bank Insur-
4 ance Fund member or members) and inserting
5 “Deposit Insurance Fund”;

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

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

10 (E) in paragraph (3), in the paragraph
11 heading, by striking “BIF” and inserting “THE
12 DEPOSIT INSURANCE FUND”; and

13 (F) in paragraph (5), in the paragraph
14 heading, by striking “BIF MEMBERS” and in-
15 serting “INSURED DEPOSITORY INSTITUTIONS”;

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

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

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

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

4 “(A) bear a rate of interest of not less
5 than the current marginal cost of funds to that
6 bank, taking into account the maturities in-
7 volved;

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

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

12 (24) in section 15(c)(5) (12 U.S.C.
13 1825(c)(5))—

14 (A) by striking “the Bank Insurance Fund
15 or Savings Association Insurance Fund, respec-
16 tively” each place that term appears and insert-
17 ing “the Deposit Insurance Fund”; and

18 (B) in subparagraph (B), by striking “the
19 Bank Insurance Fund or the Savings Associa-
20 tion Insurance Fund, respectively” and insert-
21 ing “the Deposit Insurance Fund”;

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

23 (A) in the subsection heading, by striking
24 “BIF, SAIF,” and inserting “THE DEPOSIT IN-
25 SURANCE FUND”; and

1 (B) in paragraph (1)—

2 (i) by striking “the Bank Insurance
3 Fund, the Savings Association Insurance
4 Fund,” each place that term appears and
5 inserting “the Deposit Insurance Fund”;
6 and

7 (ii) in subparagraph (D), by striking
8 “each insurance fund” and inserting “the
9 Fund”;

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

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

16 (A) in paragraph (2), in the matter pre-
17 ceding subparagraph (A), by striking the colon
18 and inserting a dash;

19 (B) in paragraph (3)(A)—

20 (i) by striking “poses a serious threat
21 to the Savings Association Insurance
22 Fund” and inserting “of an insured sav-
23 ings association poses a serious threat to
24 the Deposit Insurance Fund”; and

1 (ii) by striking “Savings Association
2 Insurance Fund member” and inserting
3 “insured savings association”; and

4 (C) in paragraph (3)(C), by striking “Sav-
5 ings Association Insurance Fund or the Bank
6 Insurance Fund” and inserting “Deposit Insur-
7 ance Fund”;

8 (28) in section 18(o) (12 U.S.C. 1828(o)), by
9 striking “deposit insurance funds” and “deposit in-
10 surance fund” each place those terms appear and in-
11 sserting “Deposit Insurance Fund”;

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

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

16 (A) in subsections (a)(1) and (d)(1)(A), by
17 striking “appropriate deposit insurance fund”
18 each place that term appears and inserting
19 “Deposit Insurance Fund”;

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

24 (C) in subsections (e)(2)(B)(ii) and
25 (f)(6)(B), by striking “the insurance fund of

1 which such bank is a member” each place that
2 term appears and inserting “the Deposit Insur-
3 ance Fund”;

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

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

9 (33) in section 36(i)(3) (12 U.S.C.
10 1831m(i)(3)), by striking “affected deposit insur-
11 ance fund” and inserting “Deposit Insurance
12 Fund”;

13 (34) in section 37(a)(1)(C) (12 U.S.C.
14 1831n(a)(1)(C)), by striking “insurance funds” and
15 inserting “Deposit Insurance Fund”;

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

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

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

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

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

7 (C) in paragraphs (2)(A) and (3)(B), by
 8 striking “the deposit insurance fund’s outlays”
 9 each place that term appears and inserting “the
 10 outlays of the Deposit Insurance Fund”; and
 11 (38) in section 38(o) (12 U.S.C. 1831o(o))—

12 (A) by striking “ASSOCIATIONS.—” and all
 13 that follows through “Subsections (e)(2)” in
 14 paragraph (2) and inserting “ASSOCIATIONS.—
 15 Subsections (e)(2)”;

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

20 (C) in paragraph (1) (as so redesignated),
 21 by redesignating clauses (i) and (ii) as subpara-
 22 graphs (A) and (B), respectively, and moving
 23 the margins 2 ems to the left.

24 (b) CONFORMING TRANSFER OF FUNDS.—Any funds
 25 resulting from the application of section 7(d)(2) of the

1 Federal Deposit Insurance Act prior to its repeal under
 2 subsection (a)(4) of this section shall be deposited into the
 3 general fund of the Deposit Insurance Fund established
 4 pursuant to this subtitle.

5 **SEC. 2006. OTHER TECHNICAL AND CONFORMING AMEND-**
 6 **MENTS.**

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

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

19 (c) ADVANCES TO CRITICALLY UNDERCAPITALIZED
 20 DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of
 21 the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is
 22 amended by striking “any deposit insurance fund in” and
 23 inserting “the Deposit Insurance Fund of”.

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

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

5 (A) in the subsection heading, by striking
6 “SAIF” and inserting “THE DEPOSIT INSUR-
7 ANCE FUND”; and

8 (B) by striking “Savings Association In-
9 surance Fund” each place that term appears
10 and inserting “Deposit Insurance Fund”;

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

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

15 (B) in subsection (k), by striking para-
16 graph (4);

17 (3) in section 21A(b)(4)(B) (12 U.S.C.
18 1441a(b)(4)(B)), by striking “affected deposit insur-
19 ance fund” and inserting “Deposit Insurance
20 Fund”; and

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

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

4 (1) in section 5 (12 U.S.C. 1464)—

5 (A) in subsection (c)(6), by striking “As
6 used in this subsection—” and inserting “For
7 purposes of this subsection, the following defini-
8 tions shall apply:”;

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

11 (C) in subsection (o)(2)(A), by striking “a
12 Bank Insurance Fund member until such time
13 as it changes its status to a Savings Association
14 Insurance Fund member” and inserting “in-
15 sured by the Deposit Insurance Fund”;

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

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

22 (F) in subsection (v)(2)(A)(i), by striking
23 “the Savings Association Insurance Fund” and
24 inserting “or the Deposit Insurance Fund”; and

25 (2) in section 10 (12 U.S.C. 1467a)—

1 (A) in subsection (c)(6)(D), by striking
2 “this title” and inserting “this Act”;

3 (B) in subsection (e)(1)(B), by striking
4 “Savings Association Insurance Fund or Bank
5 Insurance Fund” and inserting “Deposit Insur-
6 ance Fund”;

7 (C) in subsection (e)(2), by striking “Sav-
8 ings Association Insurance Fund or the Bank
9 Insurance Fund” and inserting “Deposit Insur-
10 ance Fund”;

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

13 (E) in subsection (g)(3)(A), by striking
14 “(5) of this section” and inserting “(5) of this
15 subsection”;

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

18 (G) in subsection (m)(3), by striking sub-
19 paragraph (E), and by redesignating subpara-
20 graphs (F), (G), and (H) as subparagraphs
21 (E), (F), and (G), respectively;

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

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

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

7 (1) in section 317(b)(1)(B) (12 U.S.C.
8 1723i(b)(1)(B)), by striking “Bank Insurance Fund
9 for banks or through the Savings Association Insur-
10 ance Fund for savings associations” and inserting
11 “Deposit Insurance Fund”; and

12 (2) in section 536(b)(1)(B)(ii) (12 U.S.C.
13 1735f–14(b)(1)(B)(ii)), by striking “Bank Insurance
14 Fund for banks and through the Savings Association
15 Insurance Fund for savings associations” and insert-
16 ing “Deposit Insurance Fund”.

17 (g) AMENDMENTS TO THE FINANCIAL INSTITUTIONS
18 REFORM, RECOVERY, AND ENFORCEMENT ACT OF
19 1989.—The Financial Institutions Reform, Recovery, and
20 Enforcement Act of 1989 (12 U.S.C. 1811 note) is
21 amended—

22 (1) in section 951(b)(3)(B) (12 U.S.C.
23 1833a(b)(3)(B)), by striking “Bank Insurance
24 Fund, the Savings Association Insurance Fund,”

1 and inserting “Deposit Insurance Fund (or any
2 predecessor deposit insurance fund)”; and

3 (2) in section 1112(c)(1)(B) (12 U.S.C.
4 3341(c)(1)(B)), by striking “Bank Insurance Fund,
5 the Savings Association Insurance Fund,” and in-
6 serting “Deposit Insurance Fund”.

7 (h) AMENDMENT TO THE BANK HOLDING COMPANY
8 ACT OF 1956.—The Bank Holding Company Act of 1956
9 (12 U.S.C. 1841 et seq.) is amended—

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

13 (2) in section 3(d)(1)(D)(iii) (12 U.S.C.
14 1842(d)(1)(D)(iii)), by striking “appropriate deposit
15 insurance fund” and inserting “Deposit Insurance
16 Fund”.

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

23 **SEC. 2007. EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as otherwise provided in
25 this subtitle, this subtitle and the amendments made by

1 this subtitle shall become effective not later than the first
 2 day of the first calendar quarter that begins more than
 3 90 days after the date of enactment of this Act.

4 (b) EARLIER IMPLEMENTATION.—

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

10 (A) announce such determination publicly;

11 and

12 (B) establish the effective date of the
 13 merger.

14 (2) EARLIER EFFECTIVE DATE.—On the date
 15 established under paragraph (1)(B), this subtitle
 16 and the amendments made by this subtitle shall be-
 17 come effective.

18 **Subtitle B—Deposit Insurance**
 19 **Modernization and Improvement**

20 **SEC. 2011. SHORT TITLE.**

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

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

25 (a) INSURED DEPOSITORY INSTITUTIONS.—

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

4 (A) by striking subparagraph (B) and in-
5 serting the following:

6 “(B) NET AMOUNT OF INSURED DEPOS-
7 ITS.—The net amount of deposit insurance pay-
8 able to any depositor at an insured depository
9 institution shall not exceed the standard max-
10 imum deposit insurance amount, as determined
11 in accordance with subparagraphs (C) through
12 (M).”;

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

15 “(D) COVERAGE FOR CERTAIN EMPLOYEE
16 BENEFIT PLAN DEPOSITS.—

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

21 “(ii) PROHIBITION ON ACCEPTANCE
22 OF BENEFIT PLAN DEPOSITS.—An insured
23 depository institution that is not well cap-
24 italized or adequately capitalized may not
25 accept employee benefit plan deposits.

1 “(iii) DEFINITIONS.—For purposes of
2 this subparagraph, the following definitions
3 shall apply:

4 “(I) CAPITAL STANDARDS.—The
5 terms ‘well capitalized’ and ‘ade-
6 quately capitalized’ have the same
7 meanings as in section 38.

8 “(II) EMPLOYEE BENEFIT
9 PLAN.—The term ‘employee benefit
10 plan’ has the same meaning as in
11 paragraph (5)(B)(ii), and includes any
12 eligible deferred compensation plan
13 described in section 457 of the Inter-
14 nal Revenue Code of 1986.

15 “(III) PASS-THROUGH DEPOSIT
16 INSURANCE.—The term ‘pass-through
17 deposit insurance’ means, with respect
18 to an employee benefit plan, deposit
19 insurance coverage based on the inter-
20 est of each participant, in accordance
21 with regulations issued by the Cor-
22 poration.

23 “(E) STANDARD MAXIMUM DEPOSIT IN-
24 SURANCE AMOUNT DEFINED.—For purposes of
25 this paragraph, the term ‘standard maximum

1 deposit insurance amount' means, until April 1,
2 2010, \$100,000.

3 “(F) DETERMINATION REGARDING INFLA-
4 TION ADJUSTMENTS.—

5 “(i) ADJUSTMENTS TO STANDARD
6 MAXIMUM DEPOSIT INSURANCE AMOUNT.—

7 Not later than April 1, 2010, and the first
8 day of each 5-year period thereafter, the
9 Board of Directors shall determine whether
10 to increase the standard maximum deposit
11 insurance amount based on the factors set
12 forth under subparagraph (G).

13 “(ii) ADJUSTMENTS FOR CERTAIN RE-
14 TIREMENT ACCOUNTS.—Not later than
15 April 1, 2010, and the first day of each 5-
16 year period thereafter, the Board of Direc-
17 tors shall determine whether to increase
18 the amount of insurance available for re-
19 tirement accounts under paragraph (3),
20 based on the factors set forth under sub-
21 paragraph (G).

22 “(G) INFLATION ADJUSTMENT CONSIDER-
23 ATIONS.—In making any determination under
24 subparagraph (F), the Board of Directors shall
25 consider—

1 “(i) the economic conditions affecting
2 insured depository institutions;

3 “(ii) the overall risk or risks to the
4 Deposit Insurance Fund;

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

7 “(iv) the ability of insured depository
8 institutions to identify and obtain alter-
9 native funding sources;

10 “(v) the ability of insured depository
11 institutions to meet the credit needs of
12 their communities;

13 “(vi) potential problems affecting in-
14 sured depository institutions generally or a
15 specific group or type of insured depository
16 institutions; and

17 “(vii) any other factors that the
18 Board of Directors deems appropriate.

19 “(H) INFLATION ADJUSTMENT CALCULA-
20 TIONS FOR 2010.—

21 “(i) CALCULATION FOR STANDARD
22 MAXIMUM DEPOSIT INSURANCE AMOUNT.—
23 The amount provided for any increase in
24 the standard maximum deposit insurance

1 amount shall be, as of April 1, 2010, the
2 product of—

3 “(I) \$100,000; and

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

16 “(ii) CALCULATION FOR CERTAIN RE-
17 TIREMENT ACCOUNTS FOR 2010.—The
18 amount provided for any increase in the in-
19 surance for retirement accounts under
20 paragraph (3) shall be, as of April 1,
21 2010, the product of—

22 “(I) \$250,000; and

23 “(II) the ratio of the value of the
24 Personal Consumption Expenditures
25 Chain-Type Index (or any successor

1 index thereto), published by the De-
2 partment of Commerce, for December
3 31 of the year preceding the year in
4 which the adjustment is calculated
5 under this subparagraph, to the value
6 of such index for December 31 of the
7 year preceding the effective date of
8 the Safe and Fair Deposit Insurance
9 Act of 2005.

10 “(I) INFLATION ADJUSTMENT CALCULA-
11 TIONS AFTER 2010.—

12 “(i) CALCULATION FOR THE STAND-
13 ARD MAXIMUM DEPOSIT INSURANCE
14 AMOUNT.—The amount provided for any
15 increase in the standard maximum deposit
16 insurance amount shall be, as of the 1st
17 day of each 5-year period beginning on
18 April 1, 2015, the product of—

19 “(I) the standard maximum de-
20 posit insurance amount; and

21 “(II) the ratio of the value of the
22 Personal Consumption Expenditures
23 Chain-Type Index (or any successor
24 index thereto), published by the De-
25 partment of Commerce, for December

1 31 of the year preceding the year in
2 which the adjustment is calculated
3 under this subparagraph, to the value
4 of such index for December 31 of the
5 6 years prior to the year in which the
6 adjustment is calculated under this
7 subparagraph.

8 “(ii) CALCULATION FOR CERTAIN RE-
9 TIREMENT ACCOUNTS.—The amount pro-
10 vided for any increase in the insurance for
11 retirement accounts under paragraph (3)
12 shall be, as of the 1st day of each 5-year
13 period beginning on April 1, 2015, the
14 product of—

15 “(I) the amount available for re-
16 tirement accounts under paragraph
17 (3), as adjusted pursuant to subpara-
18 graph (H) or this subparagraph, as
19 appropriate; and

20 “(II) the ratio of the value of the
21 Personal Consumption Expenditures
22 Chain-Type Index (or any successor
23 index thereto), published by the De-
24 partment of Commerce, for December
25 31 of the year preceding the year in

1 which the adjustment is calculated
2 under this subparagraph, to the value
3 of such index for December 31 of the
4 6 years prior to the year in which the
5 adjustment is calculated under this
6 subparagraph.

7 “(J) DETERMINATION OF NO INFLATION
8 INCREASES.—If the Board cannot support an
9 increase under subparagraph (F) after consid-
10 eration of the factors in subparagraph (G), no
11 inflation adjustment shall be made until recon-
12 sideration at the beginning of the next 5-year
13 period.

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

18 “(L) PUBLICATION.—Not later than April
19 1, 2010, and not later than the first day of
20 each 5-year period thereafter, the Board of Di-
21 rectors shall publish in the Federal Register the
22 standard maximum deposit insurance amount
23 and the amount of deposit insurance coverage
24 that may be due to any depositor at any in-

1 sured depository institution during the applica-
2 ble 5-year period.

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

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

13 (A) by striking “\$100,000” and inserting
14 “\$250,000”; and

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

19 (3) TECHNICAL AND CONFORMING AMENDMENT
20 RELATING TO INSURANCE OF TRUST FUNDS.—Sec-
21 tion 7(i) of the Federal Deposit Insurance Act (12
22 U.S.C. 1817(i)) is amended in each of paragraphs
23 (1) and (3), by striking “\$100,000” each place it
24 appears and inserting “the standard maximum de-

1 posit insurance amount (as determined under section
2 11(a)(1))”.

3 (4) OTHER TECHNICAL AND CONFORMING
4 AMENDMENTS.—The Federal Deposit Insurance Act
5 (12 U.S.C. 1811 et seq.) is amended—

6 (A) in section 11(m)(6) (12 U.S.C.
7 1821(m)(6)), by striking “\$100,000” and in-
8 serting “the standard maximum deposit insur-
9 ance amount (as determined under subsection
10 (a)(1))”;

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

14 “(a) INSURANCE LOGO.—

15 “(1) INSURED DEPOSITORY INSTITUTIONS.—

16 “(A) IN GENERAL.—Each insured depository
17 institution shall display at each place of
18 business maintained by that institution a sign
19 or signs relating to the insurance of the depos-
20 its of the institution, in accordance with regula-
21 tions to be prescribed by the Corporation.

22 “(B) STATEMENT TO BE INCLUDED.—
23 Each sign required under subparagraph (A)
24 shall include a statement that insured deposits

1 are backed by the full faith and credit of the
2 United States Government.

3 “(2) REGULATIONS.—The Corporation shall
4 prescribe regulations to carry out this subsection, in-
5 cluding regulations governing the substance of signs
6 required by paragraph (1) and the manner of dis-
7 play or use of such signs.

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

14 (C) in section 43(d) (12 U.S.C. 1831t(d)),
15 by striking “\$100,000” and inserting “the
16 standard maximum deposit insurance amount
17 (as determined under section 11(a)(1))”.

18 (b) INSURED CREDIT UNIONS.—

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

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

25 “(k) INSURED AMOUNTS PAYABLE.—

1 “(1) NET INSURED AMOUNT.—

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

15 “(B) AGGREGATION.—Determination of
16 the net amount of share insurance under sub-
17 paragraph (A), shall be in accordance with such
18 regulations as the Board may prescribe, and, in
19 determining the amount payable to any mem-
20 ber, there shall be added together all accounts
21 in the credit union maintained by that member
22 for that member’s own benefit, either in the
23 member’s own name or in the names of others.

24 “(C) AUTHORITY TO DEFINE THE EXTENT
25 OF COVERAGE.—The Board may define, with

1 such classifications and exceptions as it may
2 prescribe, the extent of the share insurance cov-
3 erage provided for member accounts, including
4 member accounts in the name of a minor, in
5 trust, or in joint tenancy.”;

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

7 “(4) COVERAGE FOR CERTAIN EMPLOYEE BEN-
8 EFIT PLAN DEPOSITS.—

9 “(A) PASS-THROUGH INSURANCE.—The
10 Administration shall provide pass-through share
11 insurance for the deposits or shares of any em-
12 ployee benefit plan, subject to subparagraph
13 (B).

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

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

20 “(i) CAPITAL STANDARDS.—The
21 terms ‘well capitalized’ and ‘adequately
22 capitalized’ have the same meanings as in
23 section 216(c), as added by section 301 of
24 the Credit Union Membership Access Act
25 (Public Law 105–219, 112 Stat. 931).

1 “(ii) EMPLOYEE BENEFIT PLAN.—

2 The term ‘employee benefit plan’—

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

6 “(II) includes any plan described
7 in section 401(d) of the Internal Revenue
8 Code of 1986; and

9 “(III) includes any eligible de-
10 ferred compensation plan described in
11 section 457 of the Internal Revenue
12 Code of 1986.

13 “(iii) PASS-THROUGH SHARE INSUR-
14 ANCE.—The term ‘pass-through share in-
15 surance’ means, with respect to an em-
16 ployee benefit plan, insurance coverage
17 based on the interest of each participant,
18 in accordance with regulations issued by
19 the Corporation.

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

24 “(6) DETERMINATIONS REGARDING INFLATION
25 ADJUSTMENTS.—

1 “(A) ADJUSTMENTS TO STANDARD MAX-
2 IMUM SHARE INSURANCE AMOUNT.—Not later
3 than April 1, 2010, and the first day of each
4 5-year period thereafter, the Board shall deter-
5 mine whether to increase the standard max-
6 imum share insurance amount based on the fac-
7 tors set forth under paragraph (7).

8 “(B) ADJUSTMENT FOR CERTAIN RETIRE-
9 MENT ACCOUNTS.—Not later than April 1,
10 2010, and the first day of each 5-year period
11 thereafter, the Board shall determine whether
12 to increase the amount of insurance available
13 for retirement accounts under paragraph (3),
14 based on the factors set forth under paragraph
15 (7).

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

19 “(A) the economic conditions affecting in-
20 sured credit unions;

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

23 “(C) a demonstrated need by members for
24 the inflation adjustment increase;

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

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

5 “(F) potential problems affecting insured
6 credit unions generally or a specific group or
7 type of insured credit unions; and

8 “(G) any other factors that the Board
9 deems appropriate.

10 “(8) INFLATION ADJUSTMENT CALCULATIONS
11 FOR 2010.—

12 “(A) CALCULATION FOR STANDARD MAX-
13 IMUM SHARE INSURANCE AMOUNT.—The
14 amount provided for any increase in the stand-
15 ard maximum share insurance amount shall be,
16 as of April 1, 2010, the product of—

17 “(i) \$100,000; 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 year preceding the effective date of the
2 Safe and Fair Deposit Insurance Act of
3 2005.

4 “(B) CALCULATION FOR CERTAIN RETIRE-
5 MENT ACCOUNTS FOR 2010.—The amount pro-
6 vided for any increase in the insurance for re-
7 tirement accounts under paragraph (3) shall be,
8 as of April 1, 2010, the product of—

9 “(i) \$250,000; and

10 “(ii) the ratio of the value of the Per-
11 sonal Consumption Expenditures Chain-
12 Type Index (or any successor index there-
13 to), published by the Department of Com-
14 merce, for December 31 of the year pre-
15 ceding the year in which the adjustment is
16 calculated under this paragraph, to the
17 value of such index for December 31 of the
18 year preceding the effective date of the
19 Safe and Fair Deposit Insurance Act of
20 2005.

21 “(9) INFLATION ADJUSTMENT CALCULATIONS
22 AFTER 2010.—

23 “(A) CALCULATION FOR THE STANDARD
24 MAXIMUM SHARE INSURANCE AMOUNT.—The
25 amount provided for any increase in the stand-

1 ard maximum share insurance amount shall be,
2 as of the 1st day of each 5-year period begin-
3 ning on April 1, 2015, the product of—

4 “(i) the standard maximum share in-
5 surance amount; and

6 “(ii) the ratio of the value of the Per-
7 sonal Consumption Expenditures Chain-
8 Type Index (or any successor index there-
9 to), published by the Department of Com-
10 merce, for December 31 of the year pre-
11 ceding the year in which the adjustment is
12 calculated under this paragraph, to the
13 value of such index for December 31 of the
14 6 years prior to the year in which the ad-
15 justment is calculated under this para-
16 graph.

17 “(B) CALCULATION FOR CERTAIN RETIRE-
18 MENT ACCOUNTS.—The amount provided for
19 any increase in the insurance for retirement ac-
20 counts under paragraph (3) shall be, as of the
21 1st day of each 5-year period beginning on
22 April 1, 2015, the product of—

23 “(i) the amount available for retire-
24 ment accounts under paragraph (3), as ad-

1 justed pursuant to paragraph (8) or this
2 paragraph, as appropriate; and

3 “(ii) the ratio of the value of the Per-
4 sonal Consumption Expenditures Chain-
5 Type Index (or any successor index there-
6 to), published by the Department of Com-
7 merce, for December 31 of the year pre-
8 ceding the year in which the adjustment is
9 calculated under this paragraph, to the
10 value of such index for December 31 of the
11 6 years prior to the year in which the ad-
12 justment is calculated under this para-
13 graph.

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

20 “(11) ROUNDING.—If the amount of increase
21 determined for any period is not a multiple of
22 \$10,000, the amount so determined shall be rounded
23 to the nearest \$10,000.

24 “(12) PUBLICATION.—Not later than April 1,
25 2010, and not later than the first day of each 5-year

1 period thereafter, the Board shall publish in the
2 Federal Register the standard maximum share in-
3 surance amount and the amount of share insurance
4 coverage that may be due to any depositor at any in-
5 sured credit union during the applicable 5-year pe-
6 riod.

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

13 (C) in paragraph (3), by striking
14 “\$100,000 per account” and inserting the fol-
15 lowing: “\$250,000 per account, which amount
16 shall be subject to inflation adjustments as pro-
17 vided in paragraphs (6) through (12).”.

18 (2) TECHNICAL AMENDMENT.—Section 202(h)
19 of the Federal Credit Union Act (12 U.S.C.
20 1782(h)) is amended by striking “207(c)(1)” and in-
21 serting “207(k)”.

22 (c) EFFECTIVE DATE.—Except as otherwise specifi-
23 cally provided in this section or the amendments made by
24 this section, this section and such amendments shall be-
25 come effective on the effective date of the regulations re-

1 quired under section 2017(a)(2), relating to the implemen-
 2 tation of deposit insurance changes under this section.

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

4 (a) REPEAL OF RECAPITALIZATION SCHEDULE.—

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

8 “(3) DESIGNATED RESERVE RATIO.—

9 “(A) ACTION BY THE BOARD.—

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

13 “(I) designate the reserve ratio
 14 applicable to the Deposit Insurance
 15 Fund for that year; and

16 “(II) publish the reserve ratio so
 17 designated.

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

22 “(B) RANGE.—The reserve ratio des-
 23 igned by the Board of Directors for any
 24 year—

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

1 “(ii) may not be less than 1.15 per-
2 cent.

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

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

9 “(ii) take into account economic con-
10 ditions generally affecting insured deposi-
11 tory institutions, to provide for an increase
12 in the designated reserve ratio during more
13 favorable economic conditions and to pro-
14 vide for a decrease in the designated re-
15 serve ratio during less favorable economic
16 conditions, notwithstanding the increased
17 risks of loss that may exist during such
18 less favorable conditions, as determined to
19 be appropriate by the Board;

20 “(iii) seek to prevent sharp swings in
21 the assessment rates for insured depository
22 institutions; and

23 “(iv) take into account such other fac-
24 tors as the Board of Directors may deter-

1 mine to be appropriate, consistent with the
2 requirements of this subparagraph.”.

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

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

11 “(3) DESIGNATED RESERVE RATIO.—The term
12 ‘designated reserve ratio’ means the reserve ratio
13 designated by the Board of Directors under section
14 7(b)(3).”.

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

21 (4) DESIGNATION OF INITIAL RESERVE RATIO
22 FOR DEPOSIT INSURANCE FUND.—During the period
23 beginning on the effective date of the merger of the
24 deposit insurance funds under section 2003, and
25 ending on the effective date of final regulations des-

1 ignating the reserve ratio, as required by section
 2 2017(a)(1), the designated reserve ratio of the De-
 3 posit Insurance Fund shall continue to be deter-
 4 mined pursuant to section 7(b)(2)(A)(iv), as in ef-
 5 fect on the day before the effective date of the merg-
 6 er under section 2003.

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

12 “(E) REQUIREMENTS APPLICABLE TO ANY
 13 MODIFICATION OF THE RISK-BASED ASSESS-
 14 MENT SYSTEM.—

15 “(i) IN GENERAL.—In revising or
 16 modifying the risk-based assessment sys-
 17 tem at any time after the date of enact-
 18 ment of the Deposit Insurance Reform Act
 19 of 2005, the Board of Directors—

20 “(I) may not make any change to
 21 the information collected from or re-
 22 quired to be retained by insured de-
 23 pository institutions solely for pur-
 24 poses of the assessment risk classifica-
 25 tion, as defined by regulations of the

1 Board, if the change would result in
 2 the imposition of an overall greater
 3 regulatory or reporting burden on in-
 4 sured depository institutions than was
 5 the case before that date of enact-
 6 ment; and

7 “(II) may implement any such
 8 revision or modification in final form
 9 only after notice and opportunity for
 10 comment.

11 “(ii) RULE OF CONSTRUCTION.—An
 12 increase in an assessment rate or a revi-
 13 sion of the assessment base shall not be
 14 considered to be a revision or modification
 15 resulting in greater regulatory or reporting
 16 burden for purposes of this subpara-
 17 graph.”.

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

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

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

24 “(A) IN GENERAL.—The Board of Direc-
 25 tors shall, by regulation, provide for a credit to

1 each insured depository institution that was in
2 existence on December 31, 1996, and that had
3 paid a deposit insurance assessment prior to
4 that date (or a successor insured depository in-
5 stitution), based on the assessment base of the
6 institution on that date, as compared to the
7 combined aggregate assessment base of all such
8 institutions, taking into account such factors as
9 the Board may determine to be appropriate.

10 “(B) CREDIT LIMIT.—The aggregate
11 amount of credits available under subparagraph
12 (A) to all insured depository institutions that
13 are eligible for the credit shall not exceed the
14 amount that the Corporation could collect if it
15 imposed an assessment of 9 basis points on the
16 combined assessment base of the Bank Insur-
17 ance Fund and the Savings Association Insur-
18 ance Fund as of December 31, 2001.

19 “(C) DEFINITION OF SUCCESSOR.—The
20 Corporation shall define the term ‘successor’ for
21 purposes of this paragraph, by regulation, and
22 may consider, among other factors and as the
23 Board may deem appropriate, whether and to
24 what extent, if any, an insured depository insti-
25 tution that acquires deposits from another in-

1 sured depository institution may deemed to be
2 a successor.

3 “(D) APPLICATION OF CREDITS.—The
4 amount of a credit to any insured depository in-
5 stitution under this paragraph may be applied
6 by the Corporation to those portions of the as-
7 sessments under subsection (b) applicable to
8 that institution which become due for assess-
9 ment periods beginning after the effective date
10 of regulations required by subparagraph (A).”.

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

15 “(3) DIVIDENDS.—

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

1 “(B) AMOUNT EQUAL TO OR IN EXCESS OF
2 1.40 PERCENT OF ESTIMATED INSURED DEPOS-
3 ITS AND NOT MORE THAN 1.50 PERCENT.—The
4 Corporation shall provide cash dividends to in-
5 sured depository institutions in accordance with
6 this paragraph if the reserve ratio of the De-
7 posit Insurance Fund equals or exceeds 1.40
8 and is not more than 1.50 percent, and that
9 amount shall equal 50 percent of the amount in
10 excess of the amount required to maintain the
11 reserve ratio at 1.40 percent of the estimated
12 insured deposits.

13 “(C) FACTORS FOR CONSIDERATION FOR
14 ALLOCATION OF DIVIDENDS.—In implementing
15 the provisions of this paragraph, and in accord-
16 ance with its regulations, the Corporation shall
17 consider—

18 “(i) the ratio of the assessment base
19 of an insured depository institution (in-
20 cluding any predecessor institution) on De-
21 cember 31, 1996, to the assessment base
22 of all eligible insured depository institu-
23 tions on such date;

24 “(ii) the total amount of assessments
25 paid on or after January 1, 1997, by an

1 insured depository institution (including
2 any predecessor institution) to the Deposit
3 Insurance Fund (and any predecessor de-
4 posit insurance fund);

5 “(iii) that portion of assessments paid
6 by an insured depository institution (in-
7 cluding any predecessor institution) that
8 reflects higher levels of risk assumed by
9 such institution; and

10 “(iv) such other factors as the Cor-
11 poration determines appropriate.

12 “(D) LIMITATION.—The Board of Direc-
13 tors may suspend or limit dividends paid under
14 subparagraph (B) if the Board determines in
15 writing that—

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

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

23 “(I) to grow without requiring
24 dividends under subparagraph (B); or

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

4 “(E) CONSIDERATIONS.—In making a de-
5 termination under subparagraph (D), the Board
6 shall consider—

7 “(i) national and regional conditions
8 and their impact on insured depository in-
9 stitutions;

10 “(ii) potential problems affecting in-
11 sured depository institutions or a specific
12 group or type of depository institution;

13 “(iii) the degree to which the contin-
14 gent liability of the Corporation for antici-
15 pated failures of insured institutions ade-
16 quately addresses concerns over funding
17 levels in the Deposit Insurance Fund; and

18 “(iv) any other factors that the Board
19 determines are appropriate.

20 “(F) REPORT TO CONGRESS.—

21 “(i) SUBMISSION.—Any determination
22 under subparagraph (D) shall be submitted
23 to the Committee on Banking, Housing,
24 and Urban Affairs of the Senate and the
25 Committee on Financial Services of the

1 House of Representatives, not later than
2 270 days after making such determination.

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

5 “(I) a detailed explanation for
6 the determination; and

7 “(II) a discussion of the factors
8 required to be considered under sub-
9 paragraph (E).

10 “(G) REVIEW OF DETERMINATION.—

11 “(i) ANNUAL REVIEW.—A determina-
12 tion to suspend or limit dividends under
13 subparagraph (D) shall be reviewed by the
14 Board of Directors annually.

15 “(ii) ACTION BY BOARD.—Based on
16 each annual review under clause (i), the
17 Board of Directors shall either renew or
18 remove a determination to suspend or limit
19 dividends under subparagraph (D), or shall
20 make a new determination in accordance
21 with this paragraph. Unless justified under
22 the terms of the renewal or new determina-
23 tion, the Corporation shall be required to
24 provide cash dividends under subparagraph
25 (A) or (B), as appropriate.

1 “(4) CHALLENGES TO CREDIT OR DIVIDEND
 2 AMOUNTS.—The regulations required under this sub-
 3 section shall include provisions allowing an insured
 4 depository institution a reasonable opportunity to
 5 challenge administratively the amount of its credit
 6 or dividend under this subsection. The determination
 7 of the Corporation of the amount of the credit or
 8 dividend following such challenge shall be final, and
 9 not subject to judicial review.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall become effective on the effective date of
 12 the regulations required to be issued under section
 13 2017(a)(3), relating to implementation of the one-time as-
 14 sessment credit.

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

17 (a) RECORDS RETENTION.—Paragraph (5) of section
 18 7(b) of the Federal Deposit Insurance Act (12 U.S.C.
 19 1817(b)) is amended to read as follows:

20 “(5) RECORDS TO BE MAINTAINED BY INSURED
 21 DEPOSITORY INSTITUTION.—Each insured depository
 22 institution shall maintain all records that the
 23 Corporation may require for verifying the correct-
 24 ness of the institution’s assessments until the later
 25 of—

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

3 “(B) the date of the final determination of
4 any dispute between the insured depository in-
5 stitution and the Corporation over the amount
6 of any assessment.”.

7 (b) STATUTE OF LIMITATIONS FOR ASSESSMENT AC-
8 TIONS.—Subsection (g) of section 7 of the Federal Deposit
9 Insurance Act (12 U.S.C. 1817(g)) is amended to read
10 as follows:

11 “(g) STATUTE OF LIMITATIONS FOR ASSESSMENT
12 ACTIONS.—The Corporation, in any court of competent
13 jurisdiction, shall be entitled to recover from any insured
14 depository institution the amount of any unpaid assess-
15 ment lawfully payable by such insured depository institu-
16 tion. Notwithstanding any other provision in Federal law,
17 or the law of any State—

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

23 “(2) any action by the Corporation to recover
24 from an insured depository institution the underpaid
25 amount of any assessment shall be brought within 3

1 years after the date the assessment payment was
2 due, subject to the exceptions in paragraphs (3) and
3 (5);

4 “(3) if an insured depository institution has
5 made a false or fraudulent statement with intent to
6 evade any or all of its assessment, the Corporation
7 shall have until 3 years after the date of discovery
8 of the false or fraudulent statement in which to
9 bring an action to recover the underpaid amount;

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

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

19 **SEC. 2016. INCREASE IN FEES FOR LATE ASSESSMENT PAY-**
20 **MENTS.**

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

23 (1) by striking “Any insured depository institu-
24 tion” and inserting “(1) IN GENERAL.—Any insured
25 depository institution”;

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

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

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

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

22 **SEC. 2017. REGULATIONS REQUIRED.**

23 (a) IN GENERAL.—Not later than 270 days after the
 24 date of enactment of this Act, the Board shall issue final

1 regulations, in accordance with section 553 of chapter 5
2 of title 5, United States Code—

3 (1) designating the reserve ratio for the Deposit
4 Insurance Fund, in accordance with section 7(b)(3)
5 of the Federal Deposit Insurance Act, as amended
6 by section 2013 of this subtitle, which regulations
7 shall become effective not later than 90 days after
8 the date of their publication in final form;

9 (2) implementing changes in deposit insurance
10 coverage in accordance with the amendments made
11 by section 2012, which regulations shall become ef-
12 fective not later than 90 days after the date of their
13 publication in final form;

14 (3) implementing the one-time assessment cred-
15 it to certain insured depository institutions in ac-
16 cordance with section 7(e)(2) of the Federal Deposit
17 Insurance Act, as amended by section 2014 of this
18 subtitle;

19 (4) establishing the qualifications and proce-
20 dures under which the Corporation may provide divi-
21 dends under section 7(e)(3) of the Federal Deposit
22 Insurance Act, as amended by section 2014 of this
23 subtitle; and

24 (5) providing for assessments under section 7 of
25 the Federal Deposit Insurance Act, as amended by

1 this subtitle, which regulations shall become effective
2 on the effective date of the regulations required by
3 paragraph (3).

4 (b) SAVINGS CLAUSE.—

5 (1) IN GENERAL.—

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

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

24 (2) SETTING ASSESSMENTS.—Clause (i) of sec-
25 tion 7(b)(2)(A) of the Federal Deposit Insurance

1 Act (12 U.S.C. 1817(b)(2)(A)) is amended by strik-
2 ing “necessary—” and all that follows through the
3 period at the end and inserting “necessary.”.

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

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

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

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

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

24 (2) REPORT.—Not later than 1 year after the
25 date of enactment of this title, the Board of Direc-

1 tors of the Federal Deposit Insurance Corporation
2 and the National Credit Union Administration
3 Board shall each submit a report to the Congress on
4 the study required under paragraph (1), containing
5 the findings and conclusions of the reporting agency,
6 together with such recommendations for legislative
7 or administrative changes as the agency may deter-
8 mine to be appropriate.

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

11 (1) STUDY.—The Corporation shall conduct a
12 study on the feasibility of using alternatives to esti-
13 mated insured deposits in calculating the reserve
14 ratio of the Deposit Insurance Fund.

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

21 **SEC. 2019. EFFECTIVE DATE.**

22 Except as otherwise specifically provided in this sub-
23 title, this subtitle and the amendments made by this sub-
24 title shall become effective on the date of enactment of
25 this Act.

1 **Subtitle C—FHA Asset Disposition**

2 **SEC. 2021. SHORT TITLE.**

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

5 **SEC. 2022. DEFINITIONS.**

6 For purposes of this subtitle—

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

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

15 (A) lower than the property market value;

16 and

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

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

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

4 (5) the term “multifamily real property” means
5 any rental or cooperative housing project of 5 or
6 more units owned by the Secretary that prior to ac-
7 quisition by the Secretary was security for a loan or
8 loans insured under title II of the National Housing
9 Act;

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

15 (7) the term “property market value” means
16 the value of any multifamily real property for its
17 current use, without taking into account any afford-
18 ability requirements; and

19 (8) the term “Secretary” means the Secretary
20 of Housing and Urban Development.

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

23 (a) DISPOSITIONS BY SECRETARY.—Notwithstanding
24 any other provision of law, other than any statutory af-
25 fordability requirement for the elderly and disabled, dis-

1 position by the Secretary of any multifamily real property
2 through a discount sale under section 207(l) or 246 of
3 the National Housing Act, section 203 of the Housing and
4 Community Development Amendments of 1978, or section
5 204 of the Departments of Veterans Affairs and Housing
6 and Urban Development, and Independent Agencies Ap-
7 propriations Act, 1997, shall be subject to the availability
8 of appropriations to the extent that the property value ex-
9 ceeds the sale proceeds. If the multifamily real property
10 is sold for an amount equal to or greater than the property
11 market value, the transaction is not subject to the avail-
12 ability of appropriations.

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

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

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

5 (a) VA–HUD.—Section 204(a) of the Departments
6 of Veterans Affairs and Housing and Urban Development,
7 and Independent Agencies Appropriations Act, 1997 (12
8 U.S.C. 1715z–11a(a)) is amended by adding at the end
9 the following: “A grant provided under this subsection
10 shall be available only to the extent that appropriations
11 are made in advance for such purpose, and shall not be
12 derived from the General Insurance Fund.”.

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

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

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

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

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

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

1 **Subtitle D—Adaptive Housing**
 2 **Assistance**

3 **SEC. 2031. SHORT TITLE.**

4 This subtitle may be cited as the “Specially Adapted
 5 Housing Grants Improvements Act of 2005”.

6 **SEC. 2032. ADAPTIVE HOUSING ASSISTANCE FOR DISABLED**
 7 **VETERANS RESIDING TEMPORARILY IN**
 8 **HOUSING OWNED BY A FAMILY MEMBER.**

9 (a) ASSISTANCE AUTHORIZED.—Chapter 21 of title
 10 38, United States Code, is amended by inserting after sec-
 11 tion 2102 the following new section:

12 **“§ 2102A. Assistance for veterans residing tempo-**
 13 **rarily in housing owned by a family mem-**
 14 **ber**

15 “(a) ASSISTANCE AUTHORIZED.—If a disabled vet-
 16 eran described in subsection (a)(2) or (b)(2) of section
 17 2101 of this title resides, but does not intend to perma-
 18 nently reside, in a residence owned by a member of such
 19 veteran’s family, the Secretary may assist the veteran in
 20 acquiring such adaptations to such residence as are deter-
 21 mined by the Secretary to be reasonably necessary because
 22 of the veteran’s disability.

23 “(b) LIMITATION ON AMOUNT OF ASSISTANCE.—
 24 Subject to section 2102(d) of this title, the assistance au-
 25 thorized under subsection (a) may not exceed—

1 “(1) \$10,000, in the case of a veteran described
2 in section 2101(a)(2) of this title; or

3 “(2) \$2,000, in the case of a veteran described
4 in section 2101(b)(2) of this title.

5 “(c) LIMITATION ON NUMBER OF RESIDENCES SUB-
6 JECT TO ASSISTANCE.—A veteran eligible for assistance
7 authorized under subsection (a) may only be provided such
8 assistance with respect to 1 residence.

9 “(d) REGULATIONS.—Assistance under this section
10 shall be provided in accordance with such regulations as
11 the Secretary may prescribe.

12 “(e) TERMINATION OF AUTHORITY.—The authority
13 to provide assistance under subsection (a) shall expire at
14 the end of the 5-year period beginning on the date of en-
15 actment of the Specially Adapted Housing Grants Im-
16 provements Act of 2005.”

17 (b) LIMITATIONS ON ADAPTIVE HOUSING ASSIST-
18 ANCE.—Section 2102 of such title is amended—

19 (1) in subsection (a), by striking “The assist-
20 ance authorized by section 2101(a)” and all that fol-
21 lows through “any one case—” and inserting “Sub-
22 ject to subsection (d), the assistance authorized
23 under section 2101(a) of this title shall be afforded
24 under 1 of the following plans, at the election of the
25 veteran—”;

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) Subject to subsection (d), and except as provided
4 in section 2104(b) of this title, the assistance authorized
5 by section 2101(b) of this title may not exceed the actual
6 cost, or in the case of a veteran acquiring a residence al-
7 ready adapted with special features, the fair market value,
8 of the adaptations determined by the Secretary under such
9 section 2101(b) to be reasonably necessary.”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(d)(1) The aggregate amount of assistance available
13 to a veteran under sections 2101(a) and 2102A of this
14 title shall be limited to \$50,000.

15 “(2) The aggregate amount of assistance available to
16 a veteran under sections 2101(b) and 2102A of this title
17 shall be limited to the lesser of—

18 “(A) the sum of the cost or fair market value
19 described in section 2102(b) of this title and the ac-
20 tual cost of acquiring the adaptations described in
21 subsection (a); and

22 “(B) \$10,000.

23 “(3) No veteran may receive more than 3 grants of
24 assistance under this chapter.”.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter of such title is amended
 3 by inserting after the item relating to section 2102 the
 4 following:

“2102A. Assistance for veterans residing temporarily in housing owned by family member.”.

5 **SEC. 2033. GAO REPORTS.**

6 (a) INTERIM REPORT.—Not later than 3 years after
 7 the date of enactment of this Act, the Comptroller General
 8 of the United States shall submit to Congress an interim
 9 report on the implementation of section 2102A of title 38,
 10 United States Code (as added by section 2(a)), by the De-
 11 partment of Veterans Affairs.

12 (b) FINAL REPORT.—Not later than 5 years after the
 13 date of enactment of this Act, the Comptroller General
 14 of the United States shall submit to Congress a final re-
 15 port on the implementation of such section 2102A by the
 16 Department of Veterans Affairs.

17 **TITLE III—COMMITTEE ON COM-**
 18 **MERCE, SCIENCE, AND**
 19 **TRANSPORTATION**

20 **SEC. 3001. SHORT TITLE.**

21 This title may be cited as the “Digital Transition and
 22 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) Not to exceed \$3,000,000,000 for a pro-
8 gram to assist consumers in the purchase of con-
9 verter boxes that convert a digital television signal to
10 an analog television signal, and any amounts unex-
11 pended or unobligated at the conclusion of the pro-
12 gram shall be used for the program described in
13 paragraph (3).

14 (2) Not to exceed \$200,000,000 for a program
15 to convert low-power television stations and tele-
16 vision translator stations from analog to digital, and
17 any amounts unexpended or unobligated at the con-
18 clusion of the program shall be used for the program
19 described in paragraph (3).

20 (3) Not to exceed \$1,250,000,000 for a pro-
21 gram to facilitate emergency communications, of
22 which \$1,000,000,000 shall be used for an interoper-
23 ability fund and \$250,000,000 shall be used to im-
24 plement a national alert system, of which

1 \$50,000,000 shall be used for tsunami warning and
2 coastal vulnerability programs.

3 (4) Not to exceed \$250,000,000 for a program
4 to implement the ENHANCE 911 Act of 2004 (47
5 U.S.C. 942 note).

6 (5) Not to exceed \$200,000,000 for a program
7 to provide assistance to coastal States and Indian
8 tribes affected by hurricanes and other coastal disas-
9 ters.

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

13 (e) OBLIGATION TIME PERIOD.—Any amounts that
14 are to be paid from the Fund under subsection (c) shall
15 be obligated no later than September 14, 2010. The Sec-
16 retary may not obligate any amounts from the Fund until
17 the proceeds of the auction authorized by section
18 309(j)(15)(C)(v) are actually deposited by the Commission
19 pursuant to subsection (b). Any amount in the Fund that
20 is not obligated under subsection (c) by that date shall
21 be transferred to the general fund of the Treasury.

22 (f) USE OF EXCESS PROCEEDS.—Any proceeds of the
23 auction authorized by section 309(j)(15)(C)(v) of the
24 Communications Act of 1934, as added by section 3003
25 of this Act, that exceed the sum of the payments made

1 from the Fund under subsection (c), the transfer from the
2 Fund under subsection (d), and any amount made avail-
3 able under section 3006 (referred to in this subsection as
4 “excess proceeds”), shall be distributed as follows:

5 (1) The first \$1,000,000,000 of excess proceeds
6 shall be transferred to and deposited in the general
7 fund of the Treasury as miscellaneous receipts.

8 (2) After the transfer under paragraph (1), the
9 next \$500,000,000 of excess proceeds shall be trans-
10 ferred to the interoperability fund described in sub-
11 section (c)(3).

12 (3) After the transfers under paragraphs (1)
13 and (2), the next \$1,200,000,000 of excess proceeds
14 shall be transferred to the assistance program de-
15 scribed in subsection (c)(5).

16 (4) After the transfers under paragraphs (1)
17 through (3), any remaining excess proceeds shall be
18 transferred to and deposited in the general fund of
19 the Treasury as miscellaneous receipts.

20 **SEC. 3005A. COMMUNICATION SYSTEM GRANTS.**

21 (a) DEFINITIONS.—In this section—

22 (1) the term “demonstration project” means
23 the demonstration project established under sub-
24 section (b)(1);

1 (2) the term “Department” means the Depart-
2 ment of Homeland Security;

3 (3) the term “emergency response provider”
4 has the meaning given that term in section 2(6) the
5 Homeland Security Act of 2002 (6 U.S.C. 101(6));
6 and

7 (4) the term “Secretary” means the Secretary
8 of Homeland Security.

9 (b) IN GENERAL.—

10 (1) ESTABLISHMENT.—There is established in
11 the Department an “International Border Commu-
12 nity Interoperable Communications Demonstration
13 Project”.

14 (2) MINIMUM NUMBER OF COMMUNITIES.—The
15 Secretary shall select not fewer than 2 communities
16 to participate in a demonstration project.

17 (3) LOCATION OF COMMUNITIES.—Not fewer
18 than 1 of the communities selected under paragraph
19 (2) shall be located on the northern border of the
20 United States and not fewer than 1 of the commu-
21 nities selected under paragraph (2) shall be located
22 on the southern border of the United States.

23 (c) PROJECT REQUIREMENTS.—The demonstration
24 projects shall—

1 (1) address the interoperable communications
2 needs of police officers, firefighters, emergency med-
3 ical technicians, National Guard, and other emer-
4 gency response providers;

5 (2) foster interoperable communications—

6 (A) among Federal, State, local, and tribal
7 government agencies in the United States in-
8 volved in preventing or responding to terrorist
9 attacks or other catastrophic events; and

10 (B) with similar agencies in Canada and
11 Mexico;

12 (3) identify common international cross-border
13 frequencies for communications equipment, including
14 radio or computer messaging equipment;

15 (4) foster the standardization of interoperable
16 communications equipment;

17 (5) identify solutions that will facilitate commu-
18 nications interoperability across national borders ex-
19 peditiously;

20 (6) ensure that emergency response providers
21 can communicate with each another and the public
22 at disaster sites or in the event of a terrorist attack
23 or other catastrophic event;

1 (7) provide training and equipment to enable
2 emergency response providers to deal with threats
3 and contingencies in a variety of environments; and

4 (8) identify and secure appropriate joint-use
5 equipment to ensure communications access.

6 (d) DISTRIBUTION OF FUNDS.—

7 (1) IN GENERAL.—The Secretary shall dis-
8 tribute funds under this section to each community
9 participating in a demonstration project through the
10 State, or States, in which each community is lo-
11 cated.

12 (2) OTHER PARTICIPANTS.—Not later than 60
13 days after receiving funds under paragraph (1), a
14 State receiving funds under this section shall make
15 the funds available to the local governments and
16 emergency response providers participating in a
17 demonstration project selected by the Secretary.

18 (e) FUNDING.—Amounts made available from the
19 interoperability fund under section 3005(c)(3) shall be
20 available to carry out this section without appropriation.

21 (f) REPORTING.—Not later than December 31, 2005,
22 and each year thereafter in which funds are appropriated
23 for a demonstration project, the Secretary shall provide
24 to the Committee on Homeland Security and Govern-
25 mental Affairs of the Senate and the Committee on Home-

1 land Security of the House of Representatives a report on
2 the demonstration projects under this section.

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

4 (a) IN GENERAL.—If the amount appropriated to
5 carry out the essential air service program under sub-
6 chapter II of chapter 417 of title 49, United States Code,
7 equals or exceeds \$110,000,000 for fiscal year 2006,
8 2007, 2008, 2009, or 2010, then the Secretary of Com-
9 merce shall make \$15,000,000 available from the Digital
10 Transition and Public Safety Fund available to the Sec-
11 retary of Transportation for use in carrying out the essen-
12 tial air service program for that fiscal year.

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

16 (1) appropriated for that fiscal year; or

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

22 **TITLE IV—ENERGY AND**
23 **NATURAL RESOURCES**

24 **SEC. 4001. OIL AND GAS LEASING PROGRAM.**

25 (a) DEFINITIONS.—In this section:

1 (1) COASTAL PLAIN.—The term “Coastal
2 Plain” means the area identified as the Coastal
3 Plain on the map prepared by the United States Ge-
4 ological Survey, entitled “Arctic National Wildlife
5 Refuge 1002 Coastal Plain Area”, dated September
6 2005, and on file with the United States Geological
7 Survey.

8 (2) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior, acting through the Bu-
10 reau of Land Management.

11 (b) PROGRAM.—

12 (1) IN GENERAL.—Congress—

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

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

18 (i) establish and implement an envi-
19 ronmentally sound competitive oil and gas
20 leasing program to carry out the activities
21 authorized under subparagraph (A); and

22 (ii) conduct 2 lease sales before Octo-
23 ber 1, 2010.

24 (2) ADMINISTRATION.—The Secretary shall ad-
25 minister this section through regulations, lease

1 terms, conditions, restrictions, prohibitions, stipula-
2 tions, and other provisions that ensure the oil and
3 gas exploration, development, production, and trans-
4 portation activities on the Coastal Plain are carried
5 out in a manner that will ensure the receipt of fair
6 market value by the public for the mineral resources
7 to be leased.

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

9 (1) IN GENERAL.—In order to enable the Sec-
10 retary to hold 2 lease sales before October 1, 2010,
11 this subsection shall apply with respect to the oil
12 and gas leasing program established by the Sec-
13 retary pursuant to this section.

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

24 (3) PRELEASE ACTIVITIES.—The Final Legisla-
25 tive Environmental Impact Statement on the Coastal

1 Plain dated April 1987 and prepared pursuant to
2 section 1002 of the Alaska National Interest Lands
3 Conservation Act (16 U.S.C. 3142) and section
4 102(2)(C) of the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy
6 the requirements under the National Environmental
7 Policy Act of 1969 (42 U.S.C. 4321 et seq.) that
8 apply with respect to prelease activities, including
9 actions authorized to be taken by the Secretary to
10 develop and promulgate regulations for the establish-
11 ment of the leasing program authorized by this sec-
12 tion before the conduct of the first lease sale.

13 (4) PREFERRED ACTION.—

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

24 (B) LEASING ALTERNATIVES.—The Sec-
25 retary shall only identify a preferred action for

1 leasing and a single leasing alternative, and
2 analyze the environmental effects and potential
3 mitigation measures for the preferred action
4 and leasing alternative.

5 (C) DEADLINE.—The identification and re-
6 lated analyses required by subparagraph (B)
7 shall be completed within 18 months after the
8 date of enactment of this Act.

9 (D) PUBLIC COMMENTS.—The Secretary
10 shall only consider public comments that are
11 filed within 30 days after publication of an en-
12 vironmental analysis.

13 (E) COMPLIANCE.—Compliance with this
14 paragraph satisfies all requirements of section
15 102(2)(C) of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4332(2)(C)) for the
17 analysis and consideration of the environmental
18 effects of proposed leasing under this section.

19 (5) EXPEDITED JUDICIAL REVIEW.—

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

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

3 or

4 (ii) in the case of a complaint based
5 solely on grounds arising after that period,
6 within 90 days after the complainant knew
7 or reasonably should have known of the
8 grounds for the complaint.

9 (B) SCOPE.—Judicial review of a decision
10 of the Secretary to conduct a lease sale under
11 this section (including the environmental anal-
12 ysis of the decision) shall be—

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

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

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

21 (1) 50 percent shall be paid to the State of
22 Alaska; and

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

1 (e) RIGHTS-OF-WAY.—For purposes of section
 2 1102(4)(A) of the Alaska National Interest Lands Con-
 3 servation Act (16 U.S.C. 3162(4)(A)), any rights-of-way
 4 or easements across the Coastal Plain for the exploration,
 5 development, production, or transportation of oil and gas
 6 shall be considered to be established incident to the man-
 7 agement of the Coastal Plain under this section.

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

14 (g) PROHIBITION ON EXPORTS.—An oil or gas lease
 15 issued under this title shall prohibit the exportation of oil
 16 or gas produced under the lease.

17 **TITLE V—COMMITTEE ON ENVI-**
 18 **RONMENT AND PUBLIC**
 19 **WORKS**

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

21 (a)(1) Notwithstanding any other provision of law,
 22 the amount of \$639,000,000 described in section
 23 1102(b)(10) of the Safe, Accountable, Flexible, Efficient
 24 Transportation Equity Act: A Legacy for Users (119 Stat.
 25 1144), shall be considered to be—

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

2 and

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

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

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

10 and

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

12 (b) Section 4409 of the Safe, Accountable, Flexible,
13 Efficient Transportation Equity Act: A Legacy for Users
14 (119 Stat. 1144) is amended—

15 (1) by striking “Section” and inserting the fol-
16 lowing:

17 “(a) IN GENERAL.—Section”; and

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

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

21 **TITLE VI—COMMITTEE ON**
22 **FINANCE**

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

24 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
25 cept as otherwise specifically provided, whenever in this

1 title an amendment is expressed in terms of an amend-
 2 ment to or repeal of a section or other provision, the ref-
 3 erence shall be considered to be made to that section or
 4 other provision of the Social Security Act.

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

8 **Subtitle A—Medicaid**

9 **CHAPTER 1—PAYMENT FOR**

10 **PRESCRIPTION DRUGS UNDER MEDICAID**

11 **SEC. 6001. PHARMACY REIMBURSEMENT.**

12 (a) DEFINITION OF AVERAGE MANUFACTURER
 13 PRICE.—

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

16 (A) in the paragraph heading, by striking
 17 “PRICE” and inserting “PRICE; WEIGHTED AV-
 18 ERAGE MANUFACTURER PRICE”;

19 (B) by striking “The term” and inserting
 20 the following:

21 “(A) IN GENERAL.—The term”; and

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

23 “(B) CALCULATION REQUIREMENTS.—For
 24 purposes of subparagraph (A), the average

1 manufacturer price shall be calculated accord-
2 ing to the following:

3 “(i) SALES EXEMPTED FROM COM-
4 PUTATION.—Without regard to—

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

8 “(II) such other sales as the Sec-
9 retary identifies as sales to an entity
10 that are merely nominal in amount
11 under subsection (c)(1)(C)(ii)(III);
12 and

13 “(III) bona fide service fees (as
14 defined in subparagraph (E)) that are
15 paid by a manufacturer to an entity,
16 that represent fair market value for a
17 bona fide service, and that are not
18 passed on in whole or in part to a cli-
19 ent or customer of an entity.

20 “(ii) SALE PRICE NET OF DIS-
21 COUNTS.—By including the following:

22 “(I) Cash discounts and volume
23 discounts.

1 “(II) Free goods that are contin-
2 gent upon any purchase requirement
3 or agreement.

4 “(III) Sales at a nominal price
5 that are contingent upon any pur-
6 chase requirement or agreement.

7 “(IV) Chargebacks, rebates pro-
8 vided to a pharmacy (including a mail
9 order pharmacy but excluding a phar-
10 macy benefit manager), or any other
11 direct or indirect discounts.

12 “(V) Any other price concessions,
13 which may be based on recommenda-
14 tions of the Inspector General of the
15 Department of Health and Human
16 Services, that would result in a reduc-
17 tion of the cost to the purchaser, but
18 only if the Secretary provides notice
19 of the Secretary’s intent to include
20 such price concessions in accordance
21 with section 553 of title 5, United
22 States Code.

23 “(C) WEIGHTED AVERAGE MANUFAC-
24 TURER PRICE.—The term ‘weighted average
25 manufacturer price’ means, with respect to a

1 rebate period and multiple source drug, the vol-
 2 ume-weighted average of the average manufac-
 3 turer prices reported under subsection
 4 (b)(3)(A)(i)(I) for all drug products described
 5 in paragraph (7)(A)(i) that are therapeutically
 6 equivalent and bioequivalent forms of the drug,
 7 determined by—

8 “(i) computing the sum of the prod-
 9 ucts (for each National Drug Code as-
 10 signed to such drug products) of—

11 “(I) the average manufacturer
 12 price; and

13 “(II) the total number of units
 14 reported sold under subsection
 15 (b)(3)(A)(i)(I); and

16 “(ii) dividing the sum determined
 17 under clause (i) by the sum of the total
 18 number of units under clause (i)(II) for all
 19 National Drug Codes assigned to such
 20 drug products.

21 “(D) LIMITATION ON SALES AT A NOMINAL
 22 PRICE.—

23 “(i) IN GENERAL.—For purposes of
 24 clauses (i)(II) and (ii)(III) of subpara-
 25 graph (B), only sales by a manufacturer of

1 covered outpatient drugs that are single
2 source drugs, innovator multiple source
3 drugs, or authorized generic drugs at
4 nominal prices to the following shall be
5 considered to be sales at a nominal price or
6 merely nominal in amount:

7 “(I) A covered entity described in
8 section 340B(a)(4) of the Public
9 Health Service Act.

10 “(II) An intermediate care facil-
11 ity for the mentally retarded.

12 “(III) A State-owned or operated
13 nursing facility.

14 “(IV) Any other facility or entity
15 that the Secretary determines is a
16 safety net provider to which sales of
17 such drugs at a nominal price would
18 be appropriate based on the following
19 factors:

20 “(aa) The type of facility.

21 “(bb) The services provided
22 by the facility.

23 “(cc) The patient population
24 served by the facility.

1 “(dd) The number of other
2 facilities eligible to purchase at
3 nominal prices in the same serv-
4 ice area.

5 “(ii) NONAPPLICATION.—Clause (i)
6 shall not apply with respect to sales by a
7 manufacturer at a nominal price of covered
8 outpatient drugs that are single source
9 drugs, innovator multiple source drugs, or
10 authorized generic drugs pursuant to a
11 master agreement under section 8126 of
12 title 38, United States Code.

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

21 (2) CONFORMING AMENDMENTS.—Section
22 1927(b)(3)(A)(i) (42 U.S.C. 1396r–8(b)(3)(A)(i)),
23 as amended by section 6003(a), is amended—

24 (A) in subclause (I)—

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

4 (ii) by striking “and” at the end;

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

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

8 “(III) information and data on
9 any sales that were made during such
10 period at a nominal price, including,
11 with respect to each such sale, the
12 purchaser, the name of the product,
13 the amount or number of units of the
14 product sold at a nominal price, and
15 the nominal price paid;”.

16 (3) EFFECTIVE DATE.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), the amendments made by
19 this subsection shall take effect on January 1,
20 2006.

21 (B) EXCEPTION.—Subparagraph (D) of
22 section 1927(k)(1) of the Social Security Act
23 (42 U.S.C. 1396r–8(k)(1)) (as added by para-
24 graph (1)) shall not apply with respect to a con-
25 tract in effect on the date of enactment of this

1 Act pursuant to which pharmaceutical products
 2 are or may be available at nominal prices until
 3 the expiration date of such contract, or October
 4 1, 2006, whichever is earlier, and shall apply to
 5 sales made, and rebate periods beginning, on or
 6 after that date.

7 (4) EXCLUSION OF DISCOUNTS PROVIDED TO
 8 MAIL ORDER AND NURSING FACILITY PHARMACIES
 9 FROM THE DETERMINATION OF AVERAGE MANUFAC-
 10 Turer PRICE.—

11 (A) IN GENERAL.—Section
 12 1927(k)(1)(B)(ii)(IV) (42 U.S.C. 1396r-
 13 8(k)(1)(B)(ii)(IV)), as added by paragraph
 14 (1)(C), is amended to read as follows:

15 “(IV) Chargebacks, rebates pro-
 16 vided to a pharmacy (excluding a mail
 17 order pharmacy, a pharmacy at a
 18 nursing facility or home, and a phar-
 19 macy benefit manager), or any other
 20 direct or indirect discounts.”.

21 (B) EFFECTIVE DATE.—Paragraph (3)
 22 shall apply to the amendment made by subpara-
 23 graph (A).

1 (5) EXTENSION OF PRESCRIPTION DRUG DIS-
2 COUNTS TO ENROLLEES OF MEDICAID MANAGED
3 CARE ORGANIZATIONS.—

4 (A) IN GENERAL.—Section 1903(m)(2)(A)
5 (42 U.S.C. 1396b(m)(2)(A)) is amended—

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

8 (ii) in clause (xii), by striking the pe-
9 riod at the end and inserting “; and”; and

10 (iii) by adding at the end the fol-
11 lowing:

12 “(xiii) such contract provides that payment for
13 covered outpatient drugs dispensed to individuals eli-
14 gible for medical assistance who are enrolled with
15 the entity shall be subject to the same rebate agree-
16 ment entered into under section 1927 as the State
17 is subject to and that the State shall have the option
18 of collecting rebates for the dispensing of such drugs
19 by the entity directly from manufacturers or allow-
20 ing the entity to collect such rebates from manufac-
21 turers in exchange for a reduction in the prepaid
22 payments made to the entity for the enrollment of
23 such individuals.”.

24 (B) CONFORMING AMENDMENT.—Section
25 1927(j)(1) (42 U.S.C. 1396r–8(j)91)) is

1 amended by inserting “other than for purposes
2 of collection of rebates for the dispensing of
3 such drugs in accordance with the provisions of
4 a contract under section 1903(m) that meets
5 the requirements of paragraph (2)(A)(xiii) of
6 that section” before the period.

7 (C) EFFECTIVE DATE.—The amendments
8 made by this paragraph take effect on the date
9 of enactment of this Act and apply to rebate
10 agreements entered into or renewed under sec-
11 tion 1927 of the Social Security Act (42 U.S.C.
12 1396r–8) on or after such date.

13 (b) UPPER PAYMENT LIMIT FOR INGREDIENT COST
14 OF COVERED OUTPATIENT DRUGS.—

15 (1) IN GENERAL.—Section 1927(e) (42 U.S.C.
16 1396r–8(e)) is amended to read as follows:

17 “(e) PHARMACY REIMBURSEMENT LIMITS.—

18 “(1) UPPER PAYMENT LIMIT FOR INGREDIENT
19 COST OF COVERED OUTPATIENT DRUGS.—No Fed-
20 eral financial participation shall be available for pay-
21 ment for the ingredient cost of a covered outpatient
22 drug that exceeds the upper payment limit for that
23 drug established under paragraph (2).

24 “(2) UPPER PAYMENT LIMIT.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraphs (B) and (C), the upper payment
3 limit established under this paragraph for the
4 ingredient cost of a—

5 “(i) single source drug, is 105 percent
6 of the average manufacturer price for that
7 drug; and

8 “(ii) multiple source drug, is 115 per-
9 cent of the weighted average manufacturer
10 price for that drug.

11 “(B) EXCEPTION FOR INITIAL SALES PERI-
12 ODS.—

13 “(i) IN GENERAL.—In the case of a
14 covered outpatient drug during an initial
15 sales period (not to exceed 2 calendar
16 quarters) in which data on sales for the
17 drug is not sufficiently available from the
18 manufacturer to compute the average man-
19 ufacturer price or the weighted average
20 manufacturer price, the Secretary shall es-
21 tablish the upper payment limit for the in-
22 gredient cost of such drug to apply only
23 during such period based on the following:

24 “(I) In the case of a single
25 source drug, such upper payment

1 limit shall be the wholesale acquisition
2 cost for the drug.

3 “(II) In the case of a first non-
4 innovator multiple source drug, such
5 upper payment limit shall be the aver-
6 age manufacturer price for the single
7 source drug that is rated as thera-
8apeutically equivalent and bioequivalent
9 to such drug, minus 10 percent.

10 “(III) In the case of a subse-
11 quent noninnovator multiple source
12 drug—

13 “(aa) if the Secretary has
14 sufficient data to determine the
15 weighted average manufacturer
16 price for the drug, such upper
17 payment limit shall be the
18 weighted average manufacturer
19 price determined for the thera-
20apeutically equivalent and bio-
21equivalent form of the drug; and

22 “(bb) if the Secretary does
23 not have sufficient data to deter-
24mine the weighted average manu-
25facturer price for the drug, such

1 upper payment limit shall be the
2 average manufacturer price for
3 the single source drug that is
4 rated as therapeutically equiva-
5 lent and bioequivalent to the
6 drug, minus 10 percent.

7 “(ii) DEFINITION OF WHOLESAL AC-
8 QUISTION COST.—For purposes of clause
9 (i), the term ‘wholesale acquisition cost’
10 means, with respect to a drug or biological,
11 the manufacturer’s list price for the drug
12 or biological to wholesalers or direct pur-
13 chasers in the United States, not including
14 prompt pay or other discounts, rebates, or
15 reductions in price, for the most recent
16 month for which the information is avail-
17 able, as reported in wholesale price guides
18 or other publications of drug or biological
19 pricing data.

20 “(C) EXCEPTION FOR CERTAIN INNOVATOR
21 MULTIPLE SOURCE DRUGS.—In the case of an
22 innovator multiple source drug that a pre-
23 scribing health care provider determines is nec-
24 essary for treatment of a condition and that a
25 noninnovator multiple source drug would not be

1 as effective for the individual or would have ad-
2 verse effects for the individual or both, and for
3 which the provider obtains prior authorization
4 in accordance with a program described in sub-
5 section (d)(5), the upper payment limit for the
6 innovator multiple source drug shall be 105
7 percent of the average manufacturer price for
8 such drug.

9 “(D) UPDATES; AVAILABILITY OF DATA.—

10 “(i) FREQUENCY OF DETERMINA-
11 TION.—The Secretary shall update the
12 upper payment limits applicable under this
13 paragraph on a quarterly basis, taking into
14 account the most recent data collected for
15 purposes of determining such limits and
16 the Food and Drug Administration’s most
17 recent publication of ‘Approved Drug
18 Products with Therapeutic Equivalence
19 Evaluations’.

20 “(ii) COLLECTION OF DATA.—

21 “(I) IN GENERAL.—Beginning on
22 January 1, 2006, the Secretary shall
23 collect data with respect to the aver-
24 age manufacturer prices and volume
25 of sales of covered outpatient drugs

1 (or, in the case of covered outpatient
2 drugs that are first marketed after
3 such date, beginning with the first
4 quarter during which the drugs are
5 first marketed).

6 “(II) DATA REPORTED FOR PUR-
7 POSES OF DETERMINING WEIGHTED
8 AVERAGE MANUFACTURER PRICE.—
9 Insofar as there is a lag in the report-
10 ing of the information on rebates and
11 chargebacks so that adequate data are
12 not available on a timely basis to up-
13 date the weighted average manufac-
14 turer price for a multiple source drug,
15 the manufacturer of such drug shall
16 apply a methodology based on a 12-
17 month rolling average for the manu-
18 facturer to estimate costs attributable
19 to rebates and charge backs for such
20 drug. For years after 2006, the Sec-
21 retary shall establish a uniform meth-
22 odology to estimate and apply such
23 costs.

24 “(iii) AVAILABILITY OF DATA TO
25 STATES.—Notwithstanding subsection

1 (b)(3)(D), beginning with the first quarter
2 of fiscal year 2006 for which data is avail-
3 able, and for each fiscal year quarter
4 thereafter, the Secretary shall make avail-
5 able to States the most recently reported
6 average manufacturer prices for single
7 source drugs and weighted average manu-
8 facturer prices for multiple source drugs.

9 “(E) AUTHORITY TO ENTER CON-
10 TRACTS.—The Secretary may enter into con-
11 tracts with appropriate entities to determine av-
12 erage manufacturer prices, volume, and other
13 data necessary to calculate the upper payment
14 limit for a covered outpatient drug established
15 under this subsection and to calculate that pay-
16 ment limit.

17 “(3) STATE USE OF PRICE DATA.—

18 “(A) DISTRIBUTION OF DATA.—The Sec-
19 retary shall devise and implement a means for
20 electronic distribution of the most recently cal-
21 culated weighted average manufacturer price
22 and the average manufacturer price for all cov-
23 ered outpatient drugs to each State agency des-
24 ignated under section 1902(a)(5) with responsi-
25 bility for the administration or supervision of

1 the administration of the State plan under this
2 title.

3 “(B) AUTHORITY TO ESTABLISH PAYMENT
4 RATES BASED ON DATA.—A State may use the
5 price data received in accordance with subpara-
6 graph (A) in establishing payment rates for the
7 ingredient costs and dispensing fees for covered
8 outpatient drugs dispensed to individuals eligi-
9 ble for medical assistance under this title.

10 “(4) REASONABLE DISPENSING FEES RE-
11 QUIRED.—

12 “(A) IN GENERAL.—A State which pro-
13 vides medical assistance for covered outpatient
14 drugs shall pay a dispensing fee for each cov-
15 ered outpatient drug for which Federal finan-
16 cial participation is available in accordance with
17 this section in accordance with the following:

18 “(i) The dispensing fee for a noninno-
19 vator multiple source drug shall be greater
20 than the dispensing fee for an innovator
21 multiple source drug that is rated as thera-
22apeutically equivalent and bioequivalent to
23 such drug.

24 “(ii) In establishing such dispensing
25 fees, the State takes into consideration

1 such requirements as the Secretary shall,
2 by regulation, establish, and which shall in-
3 clude consideration of the following:

4 “(I) Any reasonable costs associ-
5 ated with a pharmacist’s time in
6 checking for information about an in-
7 dividual’s coverage or performing
8 quality assurance activities.

9 “(II) Costs associated with—

10 “(aa) the measurement or
11 mixing of a covered outpatient
12 drug;

13 “(bb) filling the container
14 for the drug;

15 “(cc) physically providing
16 the completed prescription to an
17 individual enrolled in the pro-
18 gram under this title;

19 “(dd) delivery;

20 “(ee) special packaging;

21 “(ff) overhead related to
22 maintaining the facility and
23 equipment necessary to operate
24 the pharmacy, including the sala-

1 ries of pharmacists and other
2 pharmacy workers;

3 “(gg) geographic factors
4 that impact operational costs;

5 “(hh) patient counseling;
6 and

7 “(ii) the dispensing of drugs
8 requiring specialty pharmacy care
9 management services (as deter-
10 mined by the Secretary in ac-
11 cordance with subparagraph
12 (B)).

13 “(B) DETERMINATION OF DRUGS REQUIR-
14 ING SPECIALTY PHARMACY CARE MANAGEMENT
15 SERVICES.—

16 “(i) IN GENERAL.—Not later than 15
17 months after the date of enactment of the
18 Deficit Reduction Omnibus Reconciliation
19 Act of 2005, the Secretary shall establish
20 a list of covered outpatient drugs which re-
21 quire specialty pharmacy care management
22 services that includes only those drugs for
23 which the Secretary determines that access
24 by individuals eligible for medical assist-
25 ance under this title would be seriously im-

1 paired without the provision of specialty
2 pharmacy care management services.

3 “(ii) SPECIALTY PHARMACY CARE
4 MANAGEMENT SERVICES DEFINED.—For
5 purposes of this paragraph, the term ‘spe-
6 cialty pharmacy care management services’
7 means services provided in connection with
8 the dispensing or administration of a cov-
9 ered outpatient drug which the Secretary
10 determines requires—

11 “(I) significant caregiver and
12 provider contact and education re-
13 garding the relevant disease state,
14 prevention, treatment, drug indica-
15 tions, benefits, risks, complications,
16 use, pharmacy counseling, and expla-
17 nation of existing provider guidelines;

18 “(II) patient compliance services,
19 including coordination of provider vis-
20 its with drug delivery, compliance with
21 a drug dosing regimen, mailing or
22 telephone call reminders, compiling
23 compliance data, and assisting pro-
24 viders in developing compliance pro-
25 grams; or

1 “(III) tracking services, including
2 developing referral processes with pro-
3 viders, screening referrals, and track-
4 ing patient weight for dosing require-
5 ments.

6 “(iii) QUARTERLY UPDATES.—The
7 Secretary shall update the list of covered
8 outpatient drugs requiring specialty phar-
9 macy management services on a quarterly
10 basis.

11 “(5) RULES APPLICABLE TO CRITICAL ACCESS
12 RETAIL PHARMACIES.—

13 “(A) REIMBURSEMENT LIMITS.—Notwith-
14 standing paragraph (2)(A), in the case of a
15 critical access retail pharmacy (as defined in
16 subparagraph (C)), the upper payment limit—

17 “(i) for the ingredient cost of a single
18 source drug, is the lesser of—

19 “(I) 108 percent of the average
20 manufacturer price for the drug; or

21 “(II) the wholesale acquisition
22 cost for the drug; and

23 “(ii) for the ingredient cost of a mul-
24 tiple source drug, is the lesser of—

1 “(II) 140 percent of the weighted
2 average manufacturer price for the
3 drug; or

4 “(II) the wholesale acquisition
5 cost for the drug.

6 “(B) APPLICATION OF OTHER PROVI-
7 SIONS.—The preceding provisions of this sub-
8 section shall apply with respect to reimburse-
9 ment to a critical access retail pharmacy in the
10 same manner as such provisions apply to reim-
11 bursement to other retail pharmacies except
12 that, in establishing the dispensing fee for a
13 critical access pharmacy the Secretary, in addi-
14 tion to the factors required under paragraph
15 (4), shall include consideration of the costs as-
16 sociated with operating a critical access retail
17 pharmacy.

18 “(C) CRITICAL ACCESS RETAIL PHARMACY
19 DEFINED.—For purposes of subparagraph (A),
20 the term ‘critical access retail pharmacy’ means
21 an retail pharmacy that is not within a 20-mile
22 radius of another retail pharmacy.”.

23 (2) INCREASE IN BASIC REBATE FOR SINGLE
24 SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE
25 DRUGS.—Section 1927(c)(1)(B)(i)(VI) (42 U.S.C.

1 1396r-8(c)(1)(B)(i)(VI), as added by section
2 6002(a)(3), is amended by striking “17” and insert-
3 ing “18.1”.

4 (3) CONFORMING AMENDMENTS.—

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

14 (B) Section 1903(i)(10) (42 U.S.C.
15 1396b(i)(10)) is amended—

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

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

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

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

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

4 (A) January 1, 2007; or

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

9 (c) INTERIM UPPER PAYMENT LIMIT.—

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

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

20 (B) in the case of covered outpatient drugs
21 under title XIX of such Act that are marketed
22 as of July 1, 2005, and are subject to Federal
23 upper payment limits that apply under section
24 447.332 of title 42, Code of Federal Regula-
25 tions, use average wholesale prices, direct

1 prices, and wholesale acquisition costs for such
2 drugs that do not exceed such prices and costs
3 as of such date to determine the Federal upper
4 payment limits that apply under section
5 447.332 of title 42, Code of Federal Regula-
6 tions to such drugs during such period.

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

14 **SEC. 6002. INCREASE IN REBATES FOR COVERED OUT-**
15 **PATIENT DRUGS.**

16 (a) INCREASE IN BASIC REBATE FOR SINGLE
17 SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE
18 DRUGS.—Section 1927(c)(1)(B)(i) (42 U.S.C. 1396r-
19 8(c)(1)(B)(i)) is amended—

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

22 (2) in subclause (V)—

23 (A) by inserting “and before January 1,
24 2006,” after “1995,”; and

1 (B) by striking the period and inserting “;
2 and”; and

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

4 “(VI) after December 31, 2005,
5 is 17 percent.”.

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

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

10 (2) in clause (ii)—

11 (A) by inserting “and before January 1,
12 2006,” after “December 31, 1993,”; and

13 (B) by striking the period at the end and
14 inserting “; and”; and

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

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

18 **SEC. 6003. IMPROVED REGULATION OF AUTHORIZED GE-**
19 **NERIC DRUGS.**

20 (a) INCLUSION WITH OTHER REPORTED AVERAGE
21 MANUFACTURER AND BEST PRICES.—Section
22 1927(b)(3)(A) (42 U.S.C. 1396r-8(b)(3)(A)) is
23 amended—

24 (1) by striking clause (i) and inserting the fol-
25 lowing:

1 “(i) not later than 30 days after the
2 last day of each rebate period under the
3 agreement—

4 “(I) on the average manufacturer
5 price (as defined in subsection (k)(1))
6 for each covered outpatient drug for
7 the rebate period under the agreement
8 (including for each such drug that is
9 an authorized generic drug or is any
10 other drug sold under a new drug ap-
11 plication approved under section
12 505(c) of the Federal Food, Drug,
13 and Cosmetic Act); and

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

24 (2) in clause (ii), by inserting “(including for
25 such drugs that are authorized generic drugs or are

1 any other drugs sold under a new drug application
2 approved under section 505(c) of the Federal Food,
3 Drug, and Cosmetic Act)” after “drugs”.

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

6 (1) in subsection (c)(1)(C)—

7 (A) in clause (i), in the matter preceding
8 subclause (I), by striking “or innovator multiple
9 source drug of a manufacturer” and inserting
10 “, innovator multiple source drug, or authorized
11 generic drug of a manufacturer, or any other
12 drug of a manufacturer that is sold under a
13 new drug application approved under section
14 505(c) of the Federal Food, Drug, and Cos-
15 metic Act”; and

16 (B) in clause (ii)—

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

19 (ii) in subclause (III), by striking the
20 period at the end and inserting “; and”;
21 and

22 (iii) by adding at the end the fol-
23 lowing:

24 “(IV) in the case of a manufac-
25 turer that approves, allows, or other-

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

17 (2) in subsection (k)—

18 (A) in paragraph (1), as amended by sec-
19 tion 6001(a)(1)(B), by adding at the end the
20 following:

21 “(F) INCLUSION OF AUTHORIZED GENERIC
22 DRUGS.—In the case of a manufacturer that
23 approves, allows, or otherwise permits an au-
24 thorized generic drug or any other drug of the
25 manufacturer to be sold under a new drug ap-

1 plication approved under section 505(c) of the
2 Federal Food, Drug, and Cosmetic Act, such
3 term shall be inclusive of the average price paid
4 for such authorized generic or other drug.”; and

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

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

10 “(A) has been approved under section
11 505(c) of such Act; and

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

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

1 **SEC. 6004. COLLECTION OF REBATES FOR CERTAIN PHYSI-**
2 **CIAN ADMINISTERED DRUGS.**

3 (a) IN GENERAL.—Section 1927(a) (42 U.S.C.
4 1396r–8(a)) is amended by adding at the end the fol-
5 lowing:

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

18 (b) LIMITATION ON PAYMENT.—Section 1903(i)(10)
19 (42 U.S.C. 1396b(i)(10)), as amended by section
20 6001(b)(2)(B), is amended—

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

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

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

1 “(D) with respect to covered outpatient drugs
 2 described in section 1927(a)(7), unless information
 3 with respect to utilization data and coding on such
 4 drugs is submitted in accordance with that section;
 5 or”.

6 **CHAPTER 2—LONG-TERM CARE UNDER**
 7 **MEDICAID**

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

9 (a) **REQUIREMENT TO IMPOSE PARTIAL MONTHS OF**
 10 **INELIGIBILITY.**—Section 1917(c)(1)(E) (42 U.S.C.
 11 1396p(c)(1)(E)) is amended by adding at the end the fol-
 12 lowing:

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

17 (b) **AUTHORITY FOR STATES TO ACCUMULATE MUL-**
 18 **TIPLE TRANSFERS INTO 1 PENALTY PERIOD.**—Section
 19 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended by adding
 20 at the end the following:

21 “(F) Notwithstanding the preceding provisions of this
 22 paragraph, in the case of an individual (or individual’s
 23 spouse) who disposes of multiple assets in more than 1
 24 month for less than fair market value on or after the appli-
 25 cable look-back date specified in subparagraph (B), a

1 State may determine the period of ineligibility applicable
2 to such individual under this paragraph by—

3 “(i) treating the total, cumulative uncompen-
4 sated value of all assets transferred by the individual
5 (or individual’s spouse) during all months on or
6 after the look-back date specified in subparagraph
7 (B) as 1 transfer for purposes of clause (i) or (ii)
8 (as the case may be) of subparagraph (E); and

9 “(ii) beginning such period on the earliest date
10 which would apply under subparagraph (D) to any
11 of such transfers.”.

12 (c) INCLUSION OF TRANSFER OF CERTAIN NOTES
13 AND LOANS ASSETS.—Section 1917(c)(1) (42 U.S.C.
14 1396p(c)(1)), as amended by subsection (b), is amended
15 by adding at the end the following:

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

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

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

4 “(iii) prohibits the cancellation of the balance
5 upon the death of the lender.

6 In the case of a promissory note, loan, or mortgage that
7 does not satisfy the requirements of clauses (i) through
8 (iii), the value of such note, loan, or mortgage shall be
9 the outstanding balance due as of the date of the individ-
10 ual’s application for medical assistance for services de-
11 scribed in subparagraph (C).”.

12 (d) TREATMENT OF ANNUITIES.—

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

17 “(H) For purposes of this paragraph with respect to
18 a transfer of assets, the term ‘assets’ includes an annuity
19 purchased by or on behalf of an annuitant who has applied
20 for medical assistance with respect to nursing facility serv-
21 ices or other long-term care services under this title
22 unless—

23 “(i) the annuity is—

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

4 “(II) purchased with proceeds from—

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

8 “(bb) a simplified employee pension
9 (within the meaning of section 408(k) of
10 such Code); or

11 “(cc) a Roth IRA described in section
12 408A of such Code; or

13 “(ii) the annuity—

14 “(I) is irrevocable and nonassignable;

15 “(II) is actuarially sound (as determined in
16 accordance with actuarial publications of the
17 Office of the Chief Actuary of the Social Secu-
18 rity Administration); and

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

22 (2) REQUIREMENT FOR STATE TO BE NAMED
23 AS A REMAINDER BENEFICIARY.—Section 1917(c)(1)
24 (42 U.S.C. 1396p(c)(1)), as amended by paragraph
25 (1), is amended by adding at the end the following:

1 “(I) For purposes of this paragraph, the purchase of
 2 an annuity shall be treated as the disposal of an asset
 3 for less than fair market value unless the State is named
 4 as the remainder beneficiary in the first position for at
 5 least the total amount of medical assistance paid on behalf
 6 of the annuitant under this title or is named as such a
 7 beneficiary in the second position after the community
 8 spouse and such spouse does not dispose of any such re-
 9 mainder for less than fair market value.”.

10 (3) INCLUSION OF CERTAIN ANNUITIES IN AN
 11 ESTATE.—Section 1917(b)(4) (42 U.S.C.
 12 1396p(b)(4)) is amended—

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

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

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

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

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

1 “(J) For purposes of this paragraph with respect to
2 a transfer of assets, the term ‘assets’ includes the pur-
3 chase of a life estate interest in another individual’s home
4 unless the purchaser resides in the home for a period of
5 at least 1 year after the date of the purchase.

6 (f) PROTECTION AGAINST UNDUE HARDSHIP.—Sec-
7 tion 1917(c) (42 U.S.C. 1396p(c)) is amended by adding
8 at the end the following:

9 “(6) For purposes of paragraph (2)(D) and sub-
10 section (d)(5), the procedures established by the State in
11 accordance with standards specified by the Secretary shall
12 provide for—

13 “(A) notice, before application of the provisions
14 of paragraph (1) or subsection (d), to an individual
15 who is an applicant for medical assistance under this
16 title who would be subject to such a penalty under
17 such provisions that an undue hardship exception ex-
18 ists;

19 “(B) a timely process before the imposition of
20 a penalty for determining whether an undue hard-
21 ship waiver will be granted for the individual;

22 “(C) a process under which an adverse deter-
23 mination can be appealed; and

24 “(D) application of criteria that specifies that
25 an undue hardship exists when application of the

1 provisions of paragraph (1) or subsection (d) would
2 deprive the individual of medical care such that the
3 individual's health or life would be endangered or
4 when the application of such provisions would de-
5 prive the individual of food, clothing, shelter, or
6 other necessities of life.”.

7 (g) EFFECTIVE DATES.—

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

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

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

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

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

24 (3) EXTENSION OF EFFECTIVE DATE FOR
25 STATE LAW AMENDMENT.—In the case of a State

1 plan under title XIX of the Social Security Act (42
2 U.S.C. 1396 et seq.) which the Secretary of Health
3 and Human Services determines requires State legis-
4 lation in order for the plan to meet the additional
5 requirements imposed by the amendments made by
6 a provision of this section, the State plan shall not
7 be regarded as failing to comply with the require-
8 ments of such title solely on the basis of its failure
9 to meet these additional requirements before the
10 first day of the first calendar quarter beginning
11 after the close of the first regular session of the
12 State legislature that begins after the date of the en-
13 actment of this Act. For purposes of the previous
14 sentence, in the case of a State that has a 2-year
15 legislative session, each year of the session is consid-
16 ered to be a separate regular session of the State
17 legislature.

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

19 (a) EXPANSION OF STATE LONG-TERM CARE PART-
20 NERSHIPS.—

21 (1) IN GENERAL.—Section 1917(b)(1)(C)(ii)
22 (42 U.S.C. 1396p(b)(1)(C)(ii)) is amended to read
23 as follows:

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

1 “(I) a Qualified State Long-Term Care In-
2 surance Partnership (as defined in paragraph
3 (5)); or

4 “(II) under a State plan of a State
5 which—

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

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

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

1 (2) SATISFACTION OF MINIMUM FEDERAL
2 STANDARDS, TAX QUALIFICATIONS, INFLATION PRO-
3 TECTION, AND OTHER REQUIREMENTS FOR LONG-
4 TERM CARE INSURANCE PARTNERSHIPS.—Section
5 1917(b) (42 U.S.C. 1396p(b)) is amended by insert-
6 ing at the end the following:

7 “(5) The term ‘Qualified State Long-Term
8 Care Insurance Partnership’ means a program of-
9 fered in a State with an approved State plan amend-
10 ment that provides for the following:

11 “(A) Subject to the limit specified in sub-
12 paragraph (D), the disregard of any assets or
13 resources in an amount equal to the amount of
14 payments made to, or on behalf of, an indi-
15 vidual who is a beneficiary under any long-term
16 care insurance policy sold under such plan
17 amendment.

18 “(B) A requirement that the State will
19 treat benefits paid under any long-term care in-
20 surance policy sold under a plan amendment of
21 another State that maintains a Qualified Long-
22 Term Care Insurance Partnership or is de-
23 scribed in subsection (b)(1)(C)(ii)(II) the same
24 as the State treats benefits paid under such a
25 policy sold under the State’s plan amendment.

1 “(C) A requirement that any long-term
2 care insurance policy sold under such plan
3 amendment—

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

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

10 “(D) A requirement that any such policy
11 sold under the State plan amendment shall pro-
12 vide for—

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

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

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

1 “(E) A requirement that an insurer may
2 rescind a long-term care insurance policy sold
3 under such State plan amendment that has
4 been in effect for at least 2 years or deny an
5 otherwise valid long-term care insurance claim
6 under such a policy only upon a showing of mis-
7 representation that is material to the accept-
8 ance of coverage, pertains to the claim made,
9 and could not have been known by the insurer
10 at the time the policy was sold.

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

16 “(G) A requirement that the issuer of any
17 such policy report—

18 “(i) to the Secretary, such informa-
19 tion or data as the Secretary may require;
20 and

21 “(ii) to the State, the information or
22 data reported to the Secretary (if any), the
23 information or data required under the
24 minimum reporting requirements developed
25 under section 6012(b)(2)(B) of the Deficit

1 Reduction Omnibus Reconciliation Act of
2 2005, and such additional information or
3 data as the State may require.

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

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

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

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

21 “(II) Section 6B (relating to prohibi-
22 tions on limitations and exclusions) other
23 than paragraph (7) thereof.

24 “(III) Section 6C (relating to exten-
25 sion of benefits).

1 “(IV) Section 6D (relating to continu-
2 ation or conversion of coverage).

3 “(V) Section 6E (relating to dis-
4 continuance and replacement of policies).

5 “(VI) Section 7 (relating to uninten-
6 tional lapse).

7 “(VII) Section 8 (relating to disclo-
8 sure), other than sections 8F, 8G, 8H, and
9 8I thereof.

10 “(VIII) Section 9 (relating to required
11 disclosure of rating practices to consumer).

12 “(IX) Section 11 (relating to prohibi-
13 tions against post-claims underwriting).

14 “(X) Section 12 (relating to minimum
15 standards).

16 “(XI) Section 14 (relating to applica-
17 tion forms and replacement coverage).

18 “(XII) Section 15 (relating to report-
19 ing requirements).

20 “(XIII) Section 22 (relating to filing
21 requirements for marketing).

22 “(XIV) Section 23 (relating to stand-
23 ards for marketing), including inaccurate
24 completion of medical histories, other than

1 paragraphs (1), (6), and (9) of section
2 23C.

3 “(XV) Section 25 (relating to prohibi-
4 tion against preexisting conditions and
5 probationary periods in replacement poli-
6 cies or certificates).

7 “(XVI) The provisions of section 26
8 relating to contingent nonforfeiture bene-
9 fits, if the policyholder declines the offer of
10 a nonforfeiture provision described in para-
11 graph (4).

12 “(XVII) Section 29 (relating to stand-
13 ard format outline of coverage).

14 “(XVIII) Section 30 (relating to re-
15 quirement to deliver shopper’s guide).

16 “(ii) MODEL ACT.—The following require-
17 ments of the model Act:

18 “(I) Section 6C (relating to pre-
19 existing conditions).

20 “(II) Section 6D (relating to prior
21 hospitalization).

22 “(III) The provisions of section 8 re-
23 lating to contingent nonforfeiture benefits.

24 “(IV) Section 6F (relating to right to
25 return).

1 “(V) Section 6G (relating to outline of
2 coverage).

3 “(VI) Section 6H (relating to require-
4 ments for certificates under group plans).

5 “(VII) Section 6J (relating to policy
6 summary).

7 “(VIII) Section 6K (relating to
8 monthly reports on accelerated death bene-
9 fits).

10 “(B) DEFINITIONS.—For purposes of this
11 paragraph—

12 “(i) MODEL PROVISIONS.—The terms
13 ‘model regulation’ and ‘model Act’ mean the
14 long-term care insurance model regulation, and
15 the long-term care insurance model Act, respec-
16 tively, promulgated by the National Association
17 of Insurance Commissioners (as adopted as of
18 October 2000).

19 “(ii) COORDINATION.—Any provision of
20 the model regulation or model Act listed under
21 clause (i) or (ii) of subparagraph (A) shall be
22 treated as including any other provision of such
23 regulation or Act necessary to implement the
24 provision.

1 “(iii) DETERMINATION.—For purposes of
2 this paragraph, the determination of whether
3 any requirement of a model regulation or the
4 model Act has been met shall be made by the
5 Secretary.”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection take effect on October 1, 2007,
8 and apply to long-term care insurance policies sold
9 on or after that date.

10 (b) DEVELOPMENT OF UNIFORM STANDARDS AND
11 RECOMMENDATIONS.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this Act, the Secretary, in
14 consultation with the National Association of Insur-
15 ance Commissioners, issuers of long-term care insur-
16 ance policies, States with experience with long-term
17 care insurance partnership plans, other States, and
18 representatives of consumers of long-term care in-
19 surance policies shall develop the uniform standards
20 described in paragraph (2) and submit recommenda-
21 tions to Congress with respect to the issues identi-
22 fied in paragraph (3).

23 (2) UNIFORM STANDARDS.—The uniform
24 standards described in this paragraph are the fol-
25 lowing:

1 (A) RECIPROcity.—Standards for ensur-
2 ing that long-term care insurance policies
3 issued under a State long-term care insurance
4 partnership under section 1917(b)(1)(C)(ii) of
5 the Social Security Act (42 U.S.C.
6 1396p(b)(1)(C)(ii)) (as amended by subsection
7 (a)) are portable to other States with such a
8 partnership.

9 (B) MINIMUM REPORTING REQUIRE-
10 MENTS.—Standards for minimum reporting re-
11 quirements for issuers of long-term care insur-
12 ance policies under such State long-term care
13 insurance partnerships that shall specify the
14 data and information that each such issuer
15 shall report to the State with which it has such
16 a partnership. The requirements developed in
17 accordance with this subparagraph shall specify
18 the type and format of the data and informa-
19 tion to be reported and the frequency with
20 which such reports are to be made.

21 (C) SUITABILITY.—Suitability standards
22 for determining whether a long-term care insur-
23 ance policy is appropriate for the needs of an
24 applicant, based on guidance of the National

1 Association of Insurance Commissioners regard-
2 ing suitability.

3 (3) RECOMMENDATIONS.—The recommenda-
4 tions described in this paragraph are the following:

5 (A) INCONTESTABILITY.—Recommendations
6 regarding whether the requirements relating
7 to incontestability for long-term care insurance
8 policies sold under a State long-term care
9 insurance partnership program under section
10 1917(b)(1)(C)(ii) of the Social Security Act
11 should be modified based on guidance of the
12 National Association of Insurance Commis-
13 sioners regarding incontestability.

14 (B) NONFORFEITURE.—Recommendations
15 regarding whether requirements relating to non-
16 forfeiture for issuers of long-term care insurance
17 policies under a State long-term care in-
18 surance partnership program under section
19 1917(b)(1)(C)(ii) of such Act should be modi-
20 fied to reflect changes in an insured's financial
21 circumstances.

22 (C) INDEPENDENT CERTIFICATION FOR
23 BENEFITS ASSESSMENT.—Recommendations re-
24 garding whether uniform standards for requir-
25 ing benefits assessment evaluations to be con-

1 ducted by independent entities should be estab-
2 lished for issuers of long-term care insurance
3 policies under such a State partnership pro-
4 gram and, if so, what such standards should be.

5 (D) RATING REQUIREMENTS.—Rec-
6 ommendations regarding whether uniform
7 standards for the establishment of, and annual
8 increases in, premiums for long-term care in-
9 surance policies sold under such a State part-
10 nership program should be established and, if
11 so, what such standards should be.

12 (E) DISPUTE RESOLUTION.—Rec-
13 ommendations regarding whether uniform
14 standards are needed to ensure fair adjudica-
15 tion of coverage disputes under long-term care
16 insurance policies sold under such a State part-
17 nership program and the delivery of the benefits
18 promised under such policies.

19 (4) STATE REPORTING REQUIREMENTS.—Noth-
20 ing in paragraph (2)(B) shall be construed as pro-
21 hibiting a State from requiring an issuer of a long-
22 term care insurance policy sold in the State (regard-
23 less of whether the policy is issued under a State
24 long-term care insurance partnership under section
25 1917(b)(1)(C)(ii) of the Social Security Act) to re-

1 quire the issuer to report information or data to the
 2 State that is in addition to the information or data
 3 required under the minimum reporting requirements
 4 developed under that paragraph.

5 (c) ANNUAL REPORTS TO CONGRESS.—The Sec-
 6 retary of Health and Human Services shall annually re-
 7 port to Congress on the long-term care insurance partner-
 8 ships established in accordance with section
 9 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C.
 10 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)).
 11 Such reports shall include analyses of the extent to which
 12 such partnerships expand or limit access of individuals to
 13 long-term care and the impact of such partnerships on
 14 Federal and State expenditures under the Medicare and
 15 Medicaid programs.

16 **CHAPTER 3—ELIMINATING FRAUD,**
 17 **WASTE, AND ABUSE IN MEDICAID**

18 **SEC. 6021. ENHANCING THIRD PARTY RECOVERY.**

19 (a) CLARIFICATION OF RIGHT OF RECOVERY
 20 AGAINST ANY THIRD PARTY LEGALLY RESPONSIBLE FOR
 21 PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR
 22 SERVICE.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25))
 23 is amended—

24 (1) in subparagraph (A), in the matter pre-
 25 ceding clause (i)—

1 (A) by inserting “, including self-insured
2 plans” after “health insurers”; and

3 (B) by striking “and health maintenance
4 organizations” and inserting “health mainte-
5 nance organizations, pharmacy benefit man-
6 agers, or other parties that are, by statute, con-
7 tract, or agreement, legally responsible for pay-
8 ment of a claim for a health care item or serv-
9 ice”; and

10 (2) in subparagraph (G)—

11 (A) by inserting “a self-insured plan,”
12 after “1974,”; and

13 (B) by striking “and a health maintenance
14 organization” and inserting “a health mainte-
15 nance organization, a pharmacy benefit man-
16 ager, or other party that is, by statute, con-
17 tract, or agreement, legally responsible for pay-
18 ment of a claim for a health care item or serv-
19 ice”.

20 (b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE
21 THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS
22 DATA.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is
23 amended—

24 (1) in subparagraph (G), by striking “and” at
25 the end;

1 (2) in subparagraph (H), by adding “and” after
2 the semicolon at the end; and

3 (3) by inserting after subparagraph (H), the
4 following:

5 “(I) that the State shall provide assur-
6 ances satisfactory to the Secretary that the
7 State has in effect laws requiring health insur-
8 ers, including self-insured plans, group health
9 plans (as defined in section 607(1) of the Em-
10 ployee Retirement Income Security Act of
11 1974), service benefit plans, health maintenance
12 organizations, pharmacy benefit managers, or
13 other parties that are, by statute, contract, or
14 agreement, legally responsible for payment of a
15 claim for a health care item or service, as a
16 condition of doing business in the State, to—

17 “(i) provide eligibility and claims pay-
18 ment data with respect to an individual
19 who is eligible for, or is provided, medical
20 assistance under the State plan, upon the
21 request of the State;

22 “(ii) accept the subrogation of the
23 State to any right of an individual or other
24 entity to payment from the party for an

1 item or service for which payment has been
2 made under the State plan;

3 “(iii) respond to any inquiry by the
4 State regarding a claim for payment for
5 any health care item or service submitted
6 not later than 3 years after the date of the
7 provision of such health care item or serv-
8 ice; and

9 “(iv) agree not to deny a claim sub-
10 mitted by the State solely on the basis of
11 the date of submission of the claim;”.

12 (c) EFFECTIVE DATE.—Except as provided in section
13 6026(e), the amendments made by this section take effect
14 on January 1, 2006.

15 **SEC. 6022. LIMITATION ON USE OF CONTINGENCY FEE AR-**
16 **RANGEMENTS.**

17 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.
18 1396b(i)), as amended by section 104(b) of the QI, TMA,
19 and Abstinence Programs Extension and Hurricane
20 Katrina Unemployment Relief Act of 2005 (Public Law
21 109–91), is amended—

22 (1) in paragraph (19), by adding “or” at the
23 end;

24 (2) by striking the period at the end of para-
25 graph (21) and inserting “; or”; and

1 (3) by inserting after paragraph (21), the fol-
2 lowing:

3 “(22) with respect to any amount expended in
4 connection with a contract or agreement (other than
5 a risk contract under section 1903(m)) between the
6 State agency under section 1902(a)(5) (or any State
7 or local agency designated by such agency to admin-
8 ister any portion of the State plan under this title)
9 and a consultant or other contractor if the terms of
10 compensation for the consultant or other contractor
11 do not meet the standards established by the Inspec-
12 tor General of the Department of Health and
13 Human Services under section 6022(b) of the Def-
14 icit Reduction Omnibus Reconciliation Act of
15 2005.”.

16 (b) CONTINGENCY FEE ARRANGEMENT STAND-
17 ARDS.—Not later than 6 months after the date of enact-
18 ment of this Act, the Inspector General of the Department
19 of Health and Human Services shall issue standards for
20 the terms of compensation of consultants and other indi-
21 viduals or entities contracting with State agencies (or their
22 designees) administering State Medicaid plans under title
23 XIX of the Social Security Act that ensure prudent pur-
24 chasing and program integrity with respect to Federal
25 funds. The Inspector General shall annually review and,

1 as necessary, revise such standards to promptly address
 2 new compensation arrangements that may present a risk
 3 to program integrity under such title.

4 (c) EFFECTIVE DATE.—Except as provided in section
 5 6026(e), the amendments made by subsection (a) take ef-
 6 fect on January 1, 2007.

7 **SEC. 6023. ENCOURAGING THE ENACTMENT OF STATE**
 8 **FALSE CLAIMS ACTS.**

9 (a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et
 10 seq.) is amended by inserting after section 1908A the fol-
 11 lowing:

12 “STATE FALSE CLAIMS ACT REQUIREMENTS FOR
 13 INCREASED STATE SHARE OF RECOVERIES

14 “SEC. 1909. (a) IN GENERAL.—Notwithstanding sec-
 15 tion 1905(b), if a State has in effect a law relating to
 16 false or fraudulent claims that meets the requirements of
 17 subsection (b), the Federal medical assistance percentage
 18 with respect to any amounts recovered under a State ac-
 19 tion brought under such law, shall be decreased by 10 per-
 20 centage points.

21 “(b) REQUIREMENTS.—For purposes of subsection
 22 (a), the requirements of this subsection are that the In-
 23 spector General of the Department of Health and Human
 24 Services, in consultation with the Attorney General, deter-
 25 mines that the State has in effect a law that meets the
 26 following requirements:

1 “(1) The law establishes liability to the State
2 for false or fraudulent claims described in section
3 3729 of title 31, United States Code, with respect
4 to any expenditure described in section 1903(a).

5 “(2) The law contains provisions that are at
6 least as effective in rewarding and facilitating qui
7 tam actions for false or fraudulent claims as those
8 described in sections 3730 through 3732 of title 31,
9 United States Code.

10 “(3) The law contains a requirement for filing
11 an action under seal for 60 days with review by the
12 State Attorney General.

13 “(4) The law contains a civil penalty that is not
14 less than the amount of the civil penalty authorized
15 under section 3729 of title 31, United States Code.

16 “(5) The law contains provisions that are de-
17 signed to prevent a windfall recovery for a qui tam
18 relator in the event that the relator files a Federal
19 and State action for the same false or fraudulent
20 claim.

21 “(c) DEEMED COMPLIANCE.—A State that, as of
22 January 1, 2007, has a law in effect that meets the re-
23 quirements of subsection (b) shall be deemed to be in com-
24 pliance with such requirements for so long as the law con-
25 tinues to meet such requirements.

1 “(d) NO PRECLUSION OF BROADER LAWS.—Nothing
2 in this section shall be construed as prohibiting a State
3 that has in effect a law that establishes liability to the
4 State for false or fraudulent claims described in section
5 3729 of title 31, United States Code, with respect to pro-
6 grams in addition to the State program under this title,
7 or with respect to expenditures in addition to expenditures
8 described in section 1903(a), from being considered to be
9 in compliance with the requirements of subsection (a) so
10 long as the law meets such requirements.”.

11 (b) EFFECTIVE DATE.—Except as provided in sec-
12 tion 6026(e), the amendments made by this section take
13 effect on January 1, 2007.

14 **SEC. 6024. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS**
15 **RECOVERY.**

16 (a) IN GENERAL.—Section 1902(a) (42 U.S.C.
17 1396a(a)) is amended—

18 (1) in paragraph (66), by striking “and” at the
19 end;

20 (2) in paragraph (67) by striking the period at
21 the end and inserting “; and”; and

22 (3) by inserting after paragraph (67) the fol-
23 lowing:

24 “(68) provide that any entity that receives or
25 makes annual payments under the State plan of at

1 least \$1,000,000, as a condition of receiving such
2 payments, shall—

3 “(A) establish written policies, procedures,
4 and protocols for training of all employees of
5 the entity (including management), and of any
6 contractor or agent of the entity, that includes
7 a detailed discussion of the False Claims Act
8 established under sections 3729 through 3733
9 of title 31, United States Code, administrative
10 remedies for false claims and statements estab-
11 lished under chapter 38 of title 31, United
12 States Code, any State laws pertaining to civil
13 or criminal penalties for false claims and state-
14 ments, and whistleblower protections under
15 such laws, with respect to the role of such laws
16 in preventing and detecting fraud, waste, and
17 abuse in Federal health care programs (as de-
18 fined in section 1128B(f));

19 “(B) include as part of such written poli-
20 cies, procedures, and protocols, detailed provi-
21 sions and training regarding the entity’s poli-
22 cies and procedures for detecting and pre-
23 venting fraud, waste, and abuse;

24 “(C) include in any employee handbook for
25 the entity, a specific discussion of the laws de-

1 scribed in subparagraph (A), the rights of em-
2 ployees to be protected as whistleblowers, and
3 the entity’s policies and procedures for detect-
4 ing and preventing fraud, waste, and abuse;
5 and

6 “(D) require mandatory training for all
7 employees of the entity and of any contractor or
8 agent of the entity, at the time of hiring, with
9 respect to the laws described in subparagraph
10 (A) (including the whistleblower protections
11 under such laws) and the entity’s policies and
12 procedures for detecting fraud, waste, and
13 abuse.”.

14 (b) **EFFECTIVE DATE.**—Except as provided in sec-
15 tion 6026(e), the amendments made by subsection (a) take
16 effect on January 1, 2007.

17 **SEC. 6025. PROHIBITION ON RESTOCKING AND DOUBLE**
18 **BILLING OF PRESCRIPTION DRUGS.**

19 (a) **IN GENERAL.**—Section 1903(i)(10) (42 U.S.C.
20 1396b(i)), as amended by section 6004(b), is amended—

21 (1) in subparagraph (C), by striking “and” at
22 the end;

23 (2) in subparagraph (D), by striking “; or” at
24 the end and inserting “, and”; and

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

1 “(E) with respect to any amount expended for
 2 reimbursement to a pharmacy under this title for
 3 the ingredient cost of a covered outpatient drug for
 4 which the pharmacy has already received payment
 5 under this title (other than with respect to a reason-
 6 able restocking fee for such drug); or”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 subsection (a) take effect on the first day of the first fiscal
 9 year quarter that begins after the date of enactment of
 10 this Act.

11 **SEC. 6026. MEDICAID INTEGRITY PROGRAM.**

12 (a) ESTABLISHMENT OF MEDICAID INTEGRITY PRO-
 13 GRAM; MEDICAID CFO; MEDICAID PROGRAM INTEGRITY
 14 OVERSIGHT BOARD.—Title XIX (42 U.S.C. 1396 et seq.)
 15 is amended—

16 (1) by redesignating section 1936 as section
 17 1938; and

18 (2) by inserting after section 1935 the fol-
 19 lowing:

20 “MEDICAID INTEGRITY PROGRAM

21 “SEC. 1936. (a) IN GENERAL.—There is hereby es-
 22 tablished the Medicaid Integrity Program (in this section
 23 referred to as the ‘Program’) under which the Secretary
 24 shall promote the integrity of the program under this title
 25 by entering into contracts in accordance with this section

1 with eligible entities to carry out the activities described
2 in subsection (b).

3 “(b) ACTIVITIES DESCRIBED—Activities described in
4 this subsection are as follows:

5 “(1) Review of the actions of individuals or en-
6 tities furnishing items or services (whether on a fee-
7 for-service, risk, or other basis) for which payment
8 may be made under a State plan approved under
9 this title (or under any waiver of such plan approved
10 under section 1115) to determine whether fraud,
11 waste, or abuse has occurred, is likely to occur, or
12 whether such actions have any potential for resulting
13 in an expenditure of funds under this title in a man-
14 ner which is not intended under the provisions of
15 this title.

16 “(2) Audit of claims for payment for items or
17 services furnished, or administrative services ren-
18 dered, under a State plan under this title,
19 including—

20 “(A) cost reports;

21 “(B) consulting contracts; and

22 “(C) risk contracts under section 1903(m).

23 “(3) Identification and recovery of overpay-
24 ments to individuals or entities receiving Federal
25 funds under this title.

1 “(4) Education of providers of services, man-
2 aged care entities, beneficiaries, and other individ-
3 uals with respect to payment integrity and benefit
4 quality assurance issues.

5 “(c) ELIGIBLE ENTITY AND CONTRACTING REQUIRE-
6 MENTS.—

7 “(1) IN GENERAL.—An entity is eligible to
8 enter into a contract under the Program to carry
9 out any of the activities described in subsection (b)
10 if the entity satisfies the requirements of paragraphs
11 (2) and (3).

12 “(2) ELIGIBILITY REQUIREMENTS.—The re-
13 quirements of this paragraph are the following:

14 “(A) The entity has demonstrated capa-
15 bility to carry out the activities described in
16 subsection (b).

17 “(B) In carrying out such activities, the
18 entity agrees to cooperate with the Inspector
19 General of the Department of Health and
20 Human Services, the Attorney General, and
21 other law enforcement agencies, as appropriate,
22 in the investigation and deterrence of fraud and
23 abuse in relation to this title and in other cases
24 arising out of such activities.

1 “(C) The entity complies with such conflict
2 of interest standards as are generally applicable
3 to Federal acquisition and procurement.

4 “(D) The entity meets such other require-
5 ments as the Secretary may impose.

6 “(3) CONTRACTING REQUIREMENTS.—The enti-
7 ty has contracted with the Secretary in accordance
8 with such procedures as the Secretary shall by regu-
9 lation establish, except that such procedures shall in-
10 clude the following:

11 “(A) Procedures for identifying, evalu-
12 ating, and resolving organizational conflicts of
13 interest that are generally applicable to Federal
14 acquisition and procurement.

15 “(B) Competitive procedures to be used—

16 “(i) when entering into new contracts
17 under this section;

18 “(ii) when entering into contracts that
19 may result in the elimination of respon-
20 sibilities under section 202(b) of the
21 Health Insurance Portability and Account-
22 ability Act of 1996; and

23 “(iii) at any other time considered ap-
24 propriate by the Secretary.

1 “(C) Procedures under which a contract
2 under this section may be renewed without re-
3 gard to any provision of law requiring competi-
4 tion if the contractor has met or exceeded the
5 performance requirements established in the
6 current contract.

7 The Secretary may enter into such contracts without
8 regard to final rules having been promulgated.

9 “(4) LIMITATION ON CONTRACTOR LIABIL-
10 ITY.—The Secretary shall by regulation provide for
11 the limitation of a contractor’s liability for actions
12 taken to carry out a contract under the Program,
13 and such regulation shall, to the extent the Sec-
14 retary finds appropriate, employ the same or com-
15 parable standards and other substantive and proce-
16 dural provisions as are contained in section 1157.

17 “(d) COMPREHENSIVE PLAN FOR PROGRAM INTEG-
18 RITY.—

19 “(1) 5-YEAR PLAN.—With respect to the 5 fis-
20 cal year period beginning with fiscal year 2006, and
21 each such 5-fiscal year period that begins thereafter,
22 the Secretary shall establish a comprehensive plan
23 for ensuring the integrity of the program established
24 under this title by combatting fraud, waste, and
25 abuse.

1 “(2) CONSULTATION.—Each 5-fiscal year plan
2 established under paragraph (1) shall be developed
3 by the Secretary in consultation with the Attorney
4 General, the Director of the Federal Bureau of In-
5 vestigation, the Comptroller General of the United
6 States, the Inspector General of the Department of
7 Health and Human Services, and State officials with
8 responsibility for controlling provider fraud and
9 abuse under State plans under this title.

10 “(e) APPROPRIATION.—

11 “(1) IN GENERAL.—Out of any money in the
12 Treasury of the United States not otherwise appro-
13 priated, there are appropriated to carry out the
14 Medicaid Integrity Program under this section, with-
15 out further appropriation—

16 “(A) for fiscal year 2006, \$50,000,000;

17 “(B) for each of fiscal years 2007 and
18 2008, \$49,000,000;

19 “(C) for each of fiscal years 2009 and
20 2010, \$74,000,000; and

21 “(D) for fiscal year 2011 and each fiscal
22 year thereafter, \$75,000,000.

23 “(2) AVAILABILITY.—Amounts appropriated
24 pursuant to paragraph (1) shall remain available
25 until expended.

1 “(3) ANNUAL REPORT.—Not later than 180
2 days after the end of each fiscal year (beginning
3 with fiscal year 2006), the Secretary shall submit a
4 report to Congress which identifies—

5 “(A) the use of funds appropriated pursu-
6 ant to paragraph (1); and

7 “(B) the effectiveness of the use of such
8 funds.”.

9 “MEDICAID CHIEF FINANCIAL OFFICER; MEDICAID
10 PROGRAM INTEGRITY OVERSIGHT BOARD

11 “SEC. 1937. (a) ESTABLISHMENT OF MEDICAID
12 CFO.—

13 “(1) IN GENERAL.—There is established in the
14 Centers for Medicare & Medicaid Services within the
15 Office of Financial Management the position of
16 Medicaid Chief Financial Officer. The Medicaid
17 Chief Financial Officer shall be appointed by, and
18 report directly to, the Administrator of such Cen-
19 ters. The Medicaid Chief Financial Officer may be
20 removed only for cause.

21 “(2) DUTIES AND AUTHORITY.—The duties and
22 authority of the Medicaid Chief Financial Officer
23 with respect to the management and expenditure of
24 Federal funds under this title shall be comparable to
25 the duties and authority of other Chief Financial Of-
26 ficers with respect to the management and expendi-

1 ture of Federal funds under Federal health care pro-
2 grams (as defined in section 1128B(f)).

3 “(b) PROGRAM INTEGRITY OVERSIGHT BOARD.—
4 The Secretary shall establish a Medicaid Program Integ-
5 rity Oversight Board. The duties and authority of the
6 Medicaid Program Integrity Oversight Board shall be
7 comparable to the duties and authority of other oversight
8 boards established for purposes of Federal health care pro-
9 grams (as so defined) and shall include responsibility for
10 identifying vulnerabilities in the State programs estab-
11 lished under this title and developing strategies for mini-
12 mizing integrity risks to such programs.”.

13 (b) STATE REQUIREMENT TO COOPERATE WITH IN-
14 TEGRITY PROGRAM EFFORTS.—Section 1902(a) (42
15 U.S.C. 1396a(a)), as amended by section 6024(a), is
16 amended—

17 (1) in paragraph (67), by striking “and” at the
18 end;

19 (2) in paragraph (68), by striking the period at
20 the end and inserting “; and”; and

21 (3) by inserting after paragraph (68), the fol-
22 lowing:

23 “(69) provide that the State must comply with
24 any requirements determined by the Secretary to be
25 necessary for carrying out the Medicaid Integrity

1 Program established under section 1936, or the du-
2 ties of the Medicaid Chief Financial Officer and the
3 Medicaid Program Integrity Oversight Board estab-
4 lished under section 1937.”.

5 (c) INCREASED FUNDING FOR MEDICAID FRAUD AND
6 ABUSE CONTROL ACTIVITIES.—

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 the Office of the
10 Inspector General of the Department of Health and
11 Human Services, without further appropriation,
12 \$25,000,000 for each of fiscal years 2006 through
13 2010, for activities of such Office with respect to the
14 Medicaid program under title XIX of the Social Se-
15 curity Act (42 U.S.C. 1396 et seq.).

16 (2) AVAILABILITY; AMOUNTS IN ADDITION TO
17 OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVI-
18 TIES.—Amounts appropriated pursuant to para-
19 graph (1) shall—

20 (A) remain available until expended; and

21 (B) be in addition to any other amounts
22 appropriated or made available to the Office of
23 the Inspector General of the Department of
24 Health and Human Services for activities of

1 such Office with respect to the Medicaid pro-
2 gram.

3 (3) ANNUAL REPORT.—Not later than 180 days
4 after the end of each fiscal year (beginning with fis-
5 cal year 2006), the Inspector General of the Depart-
6 ment of Health and Human Services shall submit a
7 report to Congress which identifies—

8 (A) the use of funds appropriated pursuant
9 to paragraph (1); and

10 (B) the effectiveness of the use of such
11 funds.

12 (d) INCREASE IN CMS STAFFING DEVOTED TO EN-
13 SURING MEDICAID PROGRAM INTEGRITY.—The Secretary
14 shall significantly increase the number of full-time equiva-
15 lent employees whose duties consist solely of ensuring the
16 integrity of the Medicaid program established under title
17 XIX of the Social Security Act by providing effective sup-
18 port and assistance to States to combat provider fraud
19 and abuse.

20 (e) DELAYED EFFECTIVE DATE FOR CHAPTER.—in
21 the case of a State plan under title XIX of the Social Se-
22 curity Act which the Secretary determines requires State
23 legislation in order for the plan to meet the additional re-
24 quirements imposed by the amendments made by a provi-
25 sion of this chapter, the State plan shall not be regarded

1 as failing to comply with the requirements of such Act
 2 solely on the basis of its failure to meet these additional
 3 requirements before the first day of the first calendar
 4 quarter beginning after the close of the first regular ses-
 5 sion of the State legislature that begins after the date of
 6 enactment of this Act. For purposes of the previous sen-
 7 tence, in the case of a State that has a 2-year legislative
 8 session, each year of the session shall be considered to be
 9 a separate regular session of the State legislature.

10 **CHAPTER 4—STATE FINANCING UNDER**
 11 **MEDICAID**

12 **SEC. 6031. REFORMS OF TARGETED CASE MANAGEMENT.**

13 (a) IN GENERAL.—Section 1915(g) (42 U.S.C.
 14 1396n(g)(2)) is amended by striking paragraph (2) and
 15 inserting the following:

16 “(2) For purposes of this subsection:

17 “(A)(i) The term ‘case management services’
 18 means services which will assist individuals eligible
 19 under the plan in gaining access to needed medical,
 20 social, educational, and other services.

21 “(ii) Such term includes the following:

22 “(I) Assessment of an eligible individual to
 23 determine service needs, including activities
 24 that focus on needs identification, to determine
 25 the need for any medical, educational, social, or

1 other services. Such assessment activities in-
2 clude the following:

3 “(aa) Taking client history.

4 “(bb) Identifying the needs of the in-
5 dividual, and completing related docu-
6 mentation.

7 “(cc) Gathering information from
8 other sources such as family members,
9 medical providers, social workers, and edu-
10 cators, if necessary, to form a complete as-
11 sessment of the eligible individual.

12 “(II) Development of a specific care plan
13 based on the information collected through an
14 assessment, that specifies the goals and actions
15 to address the medical, social, educational, and
16 other services needed by the eligible individual,
17 including activities such as ensuring the active
18 participation of the eligible individual and work-
19 ing with the individual (or the individual’s au-
20 thorized health care decision maker) and others
21 to develop such goals and identify a course of
22 action to respond to the assessed needs of the
23 eligible individual.

24 “(III) Referral and related activities to
25 help an individual obtain needed services, in-

1 including activities that help link eligible individ-
2 uals with medical, social, educational providers
3 or other programs and services that are capable
4 of providing needed services, such as making re-
5 ferrals to providers for needed services and
6 scheduling appointments for the individual.

7 “(IV) Monitoring and followup activities,
8 including activities and contacts that are nec-
9 essary to ensure the care plan is effectively im-
10 plemented and adequately addressing the needs
11 of the eligible individual, and which may be
12 with the individual, family members, providers,
13 or other entities and conducted as frequently as
14 necessary to help determine such matters as—

15 “(aa) whether services are being fur-
16 nished in accordance with an individual’s
17 care plan;

18 “(bb) whether the services in the care
19 plan are adequate; and

20 “(cc) whether there are changes in the
21 needs or status of the eligible individual,
22 and if so, making necessary adjustments in
23 the care plan and service arrangements
24 with providers.

1 “(iii) Such term does not include the direct de-
2 livery of an underlying medical, educational, social,
3 or other service to which an eligible individual has
4 been referred, including, with respect to the direct
5 delivery of foster care services, services such as (but
6 not limited to) the following:

7 “(I) Research gathering and completion of
8 documentation required by the foster care pro-
9 gram.

10 “(II) Assessing adoption placements.

11 “(III) Recruiting or interviewing potential
12 foster care parents.

13 “(IV) Serving legal papers.

14 “(V) Home investigations.

15 “(VI) Providing transportation.

16 “(VII) Administering foster care subsidies.

17 “(VIII) Making placement arrangements.

18 “(B) The term ‘targeted case management serv-
19 ices’ are case management services that are fur-
20 nished without regard to the requirements of section
21 1902(a)(1) and section 1902(a)(10)(B) to specific
22 classes of individuals or to individuals who reside in
23 specified areas.

24 “(3) With respect to contacts with individuals who
25 are not eligible for medical assistance under the State plan

1 or, in the case of targeted case management services, indi-
2 viduals who are eligible for such assistance but are not
3 part of the target population specified in the State plan,
4 such contacts—

5 “(A) are considered an allowable case manage-
6 ment activity, when the purpose of the contact is di-
7 rectly related to the management of the eligible indi-
8 vidual’s care; and

9 “(B) are not considered an allowable case man-
10 agement activity if such contacts relate directly to
11 the identification and management of the noneligible
12 or nontargeted individual’s needs and care.

13 “(4)(A) In accordance with section 1902(a)(25), Fed-
14 eral financial participation only is available under this title
15 for case management services or targeted case manage-
16 ment services if there are no other third parties liable to
17 pay for such services, including as reimbursement under
18 a medical, social, educational, or other program.

19 “(B) A State shall allocate the costs of any part of
20 such services which are reimbursable under another feder-
21 ally funded program in accordance with OMB Circular A-
22 87 (or any related or successor guidance or regulations
23 regarding allocation of costs among federally funded pro-
24 grams) under an approved cost allocation program.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on January 1, 2006.

3 **SEC. 6032. TEMPORARY FEDERAL MATCHING PAYMENTS**
4 **FOR FEDERAL ASSISTANCE.**

5 (a) 100 PERCENT FEDERAL MATCHING PAYMENTS
6 FOR MEDICAL ASSISTANCE PROVIDED TO SPECIFIED IN-
7 DIVIDUALS.—

8 (1) IN GENERAL.—Notwithstanding section
9 1905(b) of the Social Security Act (42 U.S.C.
10 1396d(b)), for items and services furnished during
11 the period that begins on August 28, 2005, and ends
12 on May 15, 2006, the Federal medical assistance
13 percentage for providing medical assistance for such
14 items and services under a State Medicaid plan to
15 a specified individual (as defined in subsection (b)),
16 and for costs directly attributable to all administra-
17 tive activities that relate to the provision of such
18 medical assistance, shall be 100 percent.

19 (2) APPLICATION TO CHILD HEALTH ASSIST-
20 ANCE.—Notwithstanding section 2105(b) of the So-
21 cial Security Act (42 U.S.C. 1397ee(b)), for items
22 and services furnished during the period described in
23 paragraph (1), the Federal matching rate for pro-
24 viding child health assistance for such items and
25 services under a State child health plan to a speci-

1 fied individual (as so defined), and for costs directly
 2 attributable to all administrative activities that re-
 3 late to the provision of such child health assistance,
 4 shall be 100 percent.

5 (b) SPECIFIED INDIVIDUAL.—

6 (1) IN GENERAL.—For purposes of subsection
 7 (a), the term “specified individual” means an indi-
 8 vidual who, on any day during the week preceding
 9 August 28, 2005, had a primary residence in a Lou-
 10 isiana parish described in paragraph (2), a Mis-
 11 sissippi county described in paragraph (3), or an
 12 Alabama county described in paragraph (4).

13 (2) LOUISIANA PARISHES DESCRIBED.—For
 14 purposes of paragraph (1), the Louisiana parishes
 15 described in this paragraph are the following:

16 (A) Acadia.

17 (B) Ascension.

18 (C) Assumption.

19 (D) Calcasieu.

20 (E) Cameron.

21 (F) East Baton Rouge.

22 (G) East Feliciana.

23 (H) Iberia.

24 (I) Iberville.

25 (J) Jefferson.

- 1 (K) Jefferson Davis.
- 2 (L) Lafayette.
- 3 (M) Lafourche.
- 4 (N) Livingston.
- 5 (O) Orleans.
- 6 (P) Pointe Coupee.
- 7 (Q) Plaquemines.
- 8 (R) St. Bernard.
- 9 (S) St. Charles.
- 10 (T) St. Helena.
- 11 (U) St. James.
- 12 (V) St. John.
- 13 (W) St. Mary.
- 14 (X) St. Martin.
- 15 (Y) St. Tammany.
- 16 (Z) Tangipahoa.
- 17 (AA) Terrebonne.
- 18 (BB) Vermilion.
- 19 (CC) Washington.
- 20 (DD) West Baton Rouge.
- 21 (EE) West Feliciana.

22 (3) MISSISSIPPI COUNTIES DESCRIBED.—For
23 purposes of paragraph (1), the Mississippi counties
24 described in this paragraph are the following:

- 25 (A) Adams.

- 1 (B) Amite.
- 2 (C) Attala.
- 3 (D) Clairborne.
- 4 (E) Choctaw.
- 5 (F) Clarke.
- 6 (G) Copiah.
- 7 (H) Covington.
- 8 (I) Forrest.
- 9 (J) Franklin.
- 10 (K) George.
- 11 (L) Greene.
- 12 (M) Hancock.
- 13 (N) Harrison.
- 14 (O) Hinds.
- 15 (P) Jackson.
- 16 (Q) Jasper.
- 17 (R) Jefferson.
- 18 (S) Jefferson Davis.
- 19 (T) Jones.
- 20 (U) Kemper.
- 21 (V) Lamar.
- 22 (W) Lauderdale.
- 23 (X) Lawrence.
- 24 (Y) Leake.
- 25 (Z) Lincoln.

- 1 (AA) Lowndes.
- 2 (BB) Madison.
- 3 (CC) Marion.
- 4 (DD) Neshoba.
- 5 (EE) Newton.
- 6 (FF) Noxubee.
- 7 (GG) Oktibbeha.
- 8 (HH) Pearl River.
- 9 (II) Perry.
- 10 (JJ) Pike.
- 11 (KK) Rankin.
- 12 (LL) Scott.
- 13 (MM) Simpson.
- 14 (NN) Smith.
- 15 (OO) Stone.
- 16 (PP) Walthall.
- 17 (QQ) Warren.
- 18 (RR) Wayne.
- 19 (SS) Wilkinson.
- 20 (TT) Winston.
- 21 (UU) Yazoo.

22 (4) ALABAMA COUNTIES DESCRIBED.—For pur-
23 poses of paragraph (1) the Alabama counties de-
24 scribed in this paragraph are the following:

- 25 (A) Baldwin.

- 1 (B) Choctaw.
- 2 (C) Clarke.
- 3 (D) Greene.
- 4 (E) Hale.
- 5 (F) Marengo.
- 6 (G) Mobile.
- 7 (H) Pickens.
- 8 (I) Sumter.
- 9 (J) Tuscaloosa.
- 10 (K) Washington.

11 (c) FMAP ADJUSTMENT.—Notwithstanding the first
12 sentence of section 1905(b) of the Social Security Act (42
13 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI
14 of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa
15 et seq.), the Federal medical assistance percentage deter-
16 mined for Alaska for fiscal year 2006 or fiscal year 2007
17 is less than the Federal medical assistance percentage de-
18 termined for Alaska for fiscal year 2005, the Federal med-
19 ical assistance percentage determined for Alaska for fiscal
20 year 2005 shall be substituted for the Federal medical as-
21 sistance percentage otherwise determined for Alaska for
22 fiscal year 2006 or fiscal year 2007, as the case may be.

1 **SEC. 6033. MANAGED CARE ORGANIZATION PROVIDER TAX**
2 **REFORM.**

3 (a) IN GENERAL.—Section 1903(w)(7)(A)(viii) (42
4 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as fol-
5 lows:

6 “(viii) Services of managed care organiza-
7 tions (including health maintenance organiza-
8 tions, preferred provider organizations, and
9 such other similar organizations as the Sec-
10 retary may specify by regulation).”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendment made by subsection (a)
14 shall take effect on January 1, 2006.

15 (2) NONAPPLICATION.—The amendment made
16 by subsection (a) shall not apply in the case of a
17 State that, as of December 31, 2005, has in effect
18 a tax imposed on the class of health care items and
19 services described in section 1903(w)(7)(A)(viii) of
20 the Social Security Act (42 U.S.C.
21 1396b(w)(7)(A)(viii)) (as in effect before the date of
22 enactment of this Act).

23 **SEC. 6034. INCLUSION OF PODIATRISTS AS PHYSICIANS.**

24 (a) IN GENERAL.—Section 1905(a)(5)(A) (42 U.S.C.
25 1396d(a)(5)(A)) is amended by striking “section

1 1861(r)(1)” and inserting “paragraphs (1) and (3) of sec-
 2 tion 1861(r)”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) shall apply to services furnished on or after
 5 January 1, 2006.

6 **SEC. 6035. DSH ALLOTMENT FOR THE DISTRICT OF COLUM-**
 7 **BIA.**

8 (a) IN GENERAL.—The table in section 1923(f)(2)
 9 (42 U.S.C. 1396r-4(f)(2)) is amended under each of the
 10 columns for FY 00, FY 01, and FY 02, in the entry for
 11 the District of Columbia, by striking “32” and inserting
 12 “49”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 subsection (a) shall take effect as if enacted on October
 15 1, 2005 and shall apply to expenditures made on or after
 16 that date.

17 **SEC. 6036. DEMONSTRATION PROJECT REGARDING MED-**
 18 **ICAID REIMBURSEMENT FOR STABILIZATION**
 19 **OF EMERGENCY MEDICAL CONDITIONS BY**
 20 **NON-PUBLICLY OWNED OR OPERATED INSTI-**
 21 **TUTIONS FOR MENTAL DISEASES.**

22 (a) AUTHORITY TO CONDUCT DEMONSTRATION
 23 PROJECT.—The Secretary shall establish a demonstration
 24 project under which an eligible State (as defined in sub-
 25 section (b)) shall provide reimbursement under the State

1 medicaid plan to an institution for mental diseases that
2 is not publicly owned or operated and that is subject to
3 the requirements of section 1867 of the Social Security
4 Act (42 U.S.C, 1395dd) for the provision of medical as-
5 sistance available under such plan to an individual who—

6 (1) has attained age 21, but has not attained
7 age 65;

8 (2) is eligible for medical assistance under such
9 plan; and

10 (3) requires such medical assistance to stabilize
11 an emergency medical condition.

12 (b) ELIGIBLE STATE DEFINED.—

13 (1) APPLICATION.—Upon approval of an appli-
14 cation submitted by a State described in paragraph
15 (2), the State shall be an eligible State for purposes
16 of conducting a demonstration project under this
17 section.

18 (2) STATE DESCRIBED.—A State described in
19 this paragraph is each of the following:

20 (A) Arizona.

21 (B) Arkansas.

22 (C) Louisiana.

23 (D) Maine.

24 (E) North Dakota.

25 (F) Wyoming.

1 (G) Four other States selected by the Sec-
2 retary to provide geographic diversity on the
3 basis of the application to conduct a demonstra-
4 tion project under this section submitted by
5 such States.

6 (c) LENGTH OF DEMONSTRATION PROJECT.—The
7 demonstration project established under this section shall
8 be conducted for a period of 3 consecutive years.

9 (d) LIMITATIONS ON FEDERAL FUNDING.—

10 (1) APPROPRIATION.—

11 (A) IN GENERAL.—Out of any funds in the
12 Treasury not otherwise appropriated, there is
13 appropriated to carry out this section,
14 \$30,000,000 for fiscal year 2006.

15 (B) BUDGET AUTHORITY.—Subparagraph
16 (A) constitutes budget authority in advance of
17 appropriations Act and represents the obliga-
18 tion of the Federal Government to provide for
19 the payment of the amounts appropriated under
20 that subparagraph.

21 (2) 3-YEAR AVAILABILITY.—Funds appro-
22 priated under paragraph (1) shall remain available
23 for obligation through December 31, 2008.

24 (3) LIMITATION ON PAYMENTS.—In no case
25 may—

1 (A) the aggregate amount of payments
2 made by the Secretary to eligible States under
3 this section exceed \$30,000,000; or

4 (B) payments be provided by the Secretary
5 under this section after December 31, 2008.

6 (4) FUNDS ALLOCATED TO STATES.—The Sec-
7 retary shall allocate funds to eligible States based on
8 their applications and the availability of funds.

9 (5) PAYMENTS TO STATES.—The Secretary
10 shall pay to each eligible State, from its allocation
11 under paragraph (4), an amount each quarter equal
12 to the Federal medical assistance percentage of ex-
13 penditures in the quarter for medical assistance de-
14 scribed in subsection (a).

15 (e) REPORTS.—

16 (1) ANNUAL PROGRESS REPORTS.—The Sec-
17 retary shall submit annual reports to Congress on
18 the progress of the demonstration project conducted
19 under this section.

20 (2) FINAL REPORT AND RECOMMENDATION.—
21 Not later than March 31, 2009, the Secretary shall
22 submit to Congress a final report on the demonstra-
23 tion project conducted under this section that shall
24 include the following:

1 (A) A determination as to whether the
2 demonstration project resulted in increased ac-
3 cess to inpatient mental health services under
4 the medicaid program.

5 (B) An analysis regarding whether the
6 demonstration project produced a significant re-
7 duction in the use of higher cost emergency
8 room visits for individuals eligible for medical
9 assistance under the medicaid program.

10 (C) An assessment of the impact of the
11 demonstration project on the costs related to
12 the provision of inpatient psychiatric care and
13 services under the medicaid program.

14 (D) A recommendation regarding whether
15 the demonstration project should be continued
16 after December 31, 2008, and expanded on a
17 national basis.

18 (f) WAIVER AUTHORITY.—

19 (1) IN GENERAL.—The Secretary shall waive
20 the limitation of subdivision (B) following paragraph
21 (28) of section 1905(a) of the Social Security Act
22 (42 U.S.C. 1396d(a)) (relating to limitations on pay-
23 ments for care or services for individuals under 65
24 years of age who are patients in an institution for

1 mental diseases) for purposes of carrying out the
2 demonstration project under this section.

3 (2) LIMITED OTHER WAIVER AUTHORITY.—The
4 Secretary may waive other requirements of titles XI
5 and XIX of the Social Security Act (including the
6 requirements of sections 1902(a)(1) (relating to
7 statewideness) and 1902(a)(10)(B) (relating to com-
8 parability)) only to extent necessary to carry out the
9 demonstration project under this section.

10 (g) DEFINITIONS.—In this section:

11 (1) EMERGENCY MEDICAL CONDITION.—The
12 term “emergency medical condition” has the mean-
13 ing given that term in section 1867(e)(1) of the So-
14 cial Security Act (42 U.S.C. 1395dd(e)(1)).

15 (2) FEDERAL MEDICAL ASSISTANCE PERCENT-
16 AGE.—The term “Federal medical assistance per-
17 centage” has the meaning given that term with re-
18 spect to a State in section 1905(b) of the Social Se-
19 curity Act (42 U.S.C. 1396d(b)).

20 (3) INSTITUTION FOR MENTAL DISEASES.—The
21 term “institution for mental diseases” has the mean-
22 ing given that term in section 1905(i) of the Social
23 Security Act (42 U.S.C. 1396d(i)).

24 (4) MEDICAL ASSISTANCE.—The term “medical
25 assistance” has the meaning given that term in sec-

1 tion 1905(a) of the Social Security Act (42 U.S.C.
2 1396d(a)).

3 (5) STABILIZE.—The term “stabilize” has the
4 meaning given that term in section 1867(e)(3)(A) of
5 the Social Security Act (42 U.S.C.
6 1395dd(e)(3)(A)).

7 (6) STATE.—The term “State” has the mean-
8 ing given that term for purposes of title XIX of the
9 Social Security Act (42 U.S.C. 1396 et seq.).

10 **SEC. 6037. LIMITATION ON SEVERE REDUCTION IN THE**
11 **MEDICAID FMAP FOR FISCAL YEAR 2006.**

12 (a) LIMITATION ON REDUCTION.—In no case shall
13 the FMAP for a State for fiscal year 2006 be less than
14 the greater of the following:

15 (1) 2005 FMAP DECREASED BY THE APPLICA-
16 BLE PERCENTAGE POINTS.—The FMAP determined
17 for the State for fiscal year 2005, decreased by—

18 (A) 0.1 percentage points in the case of
19 Delaware and Michigan;

20 (B) 0.3 percentage points in the case of
21 Kentucky; and

22 (C) 0.5 percentage points in the case of
23 any other State.

24 (2) COMPUTATION WITHOUT RETROACTIVE AP-
25 PPLICATION OF REBENCHMARKED PER CAPITA IN-

1 COME.—The FMAP that would have been deter-
2 mined for the State for fiscal year 2006 if the per
3 capita incomes for 2001 and 2002 that was used to
4 determine the FMAP for the State for fiscal year
5 2005 were used.

6 (b) SCOPE OF APPLICATION.—The FMAP applicable
7 to a State for fiscal year 2006 after the application of
8 subsection (a) shall apply only for purposes of titles XIX
9 and XXI of the Social Security Act (including for purposes
10 of making disproportionate share hospital payments de-
11 scribed in section 1923 of such Act (42 U.S.C. 1396r-
12 4) and payments under such titles that are based on the
13 enhanced FMAP described in section 2105(b) of such Act
14 (42 U.S.C. 1397ee(b))) and shall not apply with respect
15 to payments under title IV of such Act (42 U.S.C. 601
16 et seq.).

17 (c) DEFINITIONS.—In this section:

18 (1) FMAP.—The term “FMAP” means the
19 Federal medical assistance percentage, as defined in
20 section 1905(b) of the Social Security Act (42
21 U.S.C. 1396d(b)).

22 (2) STATE.—The term “State” has the mean-
23 ing given such term for purposes of title XIX of the
24 Social Security Act (42 U.S.C. 1396 et seq.).

1 (d) REPEAL.—Effective as of October 1, 2006, this
 2 section is repealed and shall not apply to any fiscal year
 3 after fiscal year 2006.

4 **SEC. 6038. EXTENSION OF PRESCRIPTION DRUG REBATES**
 5 **TO ENROLLEES IN MEDICAID MANAGED**
 6 **CARE ORGANIZATIONS.**

7 (a) IN GENERAL.—Section 1927(j)(1) (42 U.S.C.
 8 1396r–8(j)(1)) is amended by striking “dispensed” and all
 9 that follows through the period and inserting “are not sub-
 10 ject to the requirements of this section if such drugs are—

11 “(A) dispensed by health maintenance organiza-
 12 tions that contract under section 1903(m); and

13 “(B) subject to discounts under section 340B of
 14 the Public Health Service Act (42 U.S.C. 256b).”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 subsection (a) shall take effect on the date of enactment
 17 of this Act and apply to rebate agreements entered into
 18 or renewed under section 1927 of the Social Security Act
 19 (42 U.S.C. 1396r–8) on or after such date.

20 **SEC. 6039. EXTENSION OF THE MEDICARE PART A AND B**
 21 **PAYMENT HOLIDAY.**

22 Section 6112(b)(1) of this Act is amended by striking
 23 “September 22, 2006” and inserting “September 21,
 24 2006”.

1 **SEC. 6039A. SENSE OF THE SENATE.**

2 (a) FINDINGS.—The Senate makes the following
3 findings:

4 (1) On October 26, 2005, the Committee on
5 Ways and Means of the United States House of
6 Representatives approved a budget reconciliation
7 package that would significantly reduce the Federal
8 Government’s funding used to pay for the child sup-
9 port program established under part D of title IV of
10 the Social Security Act (42 U.S.C. 651 et seq.) and
11 would restrict the ability of States to use Federal
12 child support incentive payments for child support
13 program expenditures that are eligible for Federal
14 matching payments.

15 (2) The child support program enforces the re-
16 sponsibility of non-custodial parents to support their
17 children. The program is jointly funded by Federal,
18 State and local governments.

19 (3) The Office of Management and Budget gave
20 the child support program a 90 percent rating under
21 the Program Assessment Rating Tool (PART), mak-
22 ing it the highest performing social services pro-
23 gram.

24 (4) The President’s 2006 budget cites the child
25 support program as “one of the highest rated block/
26 formula grants of all reviewed programs govern-

1 ment-wide. This high rating is due to its strong mis-
2 sion, effective management, and demonstration of
3 measurable progress toward meeting annual and
4 long term performance measures.”

5 (5) In 2004, the child support program spent
6 \$5,300,000,000 to collect \$21,900,000,000 in sup-
7 port payments. Public investment in the child sup-
8 port program provides more than a four-fold return,
9 collecting \$4.38 in child support for every Federal
10 and State dollar that the program spends.

11 (6) In 2004, 17,300,000 children, or 60 percent
12 of all children living apart from a parent, received
13 child support services through the program. The per-
14 centage is higher for poor children—84 percent of
15 poor children living apart from their parent receive
16 child support services through the program. Families
17 assisted by the child support program generally have
18 low or moderate incomes.

19 (7) Children who receive child support from
20 their parents do better in school than those that do
21 not receive support payments. Older children with
22 child support payments are more likely to finish high
23 school and attend college.

24 (8) The child support program directly de-
25 creases the costs of other public assistance programs

1 by increasing family self-sufficiency. The more effective
2 the child support program in a State, the higher
3 the savings in public assistance costs.

4 (9) Child support helps lift more than
5 1,000,000 Americans out of poverty each year.

6 (10) Families that are former recipients of assistance
7 under the temporary assistance for needy families program
8 (TANF) have seen the greatest increase in child support
9 payments. Collections for these families increased 94 percent
10 between 1999 and 2004, even though the number of former TANF
11 families did not increase during this period.

12 (11) Families that receive child support are
13 more likely to find and hold jobs, and less likely to
14 be poor than comparable families without child support.
15

16 (12) The child support program saved costs in
17 the TANF, Medicaid, Food Stamps, Supplemental
18 Security Income, and subsidized housing programs.

19 (13) The Congressional Budget Office estimates
20 that the funding cuts proposed by the Committee on
21 Ways and Means of the House of Representatives
22 would reduce child support collections by nearly
23 \$7,900,000,000 in the next 5 years and
24 \$24,100,000,000 in the next 10 years.
25

1 (14) That National Governor's Association has
2 stated that such cuts are unduly burdensome and
3 will force States to reevaluate several services that
4 make the child support program so effective.

5 (15) The Federal Government has a moral re-
6 sponsibility to ensure that parents who do not live
7 with their children meet their financial support obli-
8 gations for those children.

9 (b) SENSE OF THE SENATE.—It is the sense of the
10 Senate that the Senate will not accept any reduction in
11 funding for the child support program established under
12 part D of title IV of the Social Security Act (42 U.S.C.
13 651 et seq.), or any restrictions on the ability of States
14 to use Federal child support incentive payments for child
15 support program expenditures that are eligible for Federal
16 matching payments, during this Congress.

17 **SEC. 6039B. AUTHORITY TO CONTINUE PROVIDING CER-**
18 **TAIN ADULT DAY HEALTH CARE SERVICES**
19 **OR MEDICAL ADULT DAY CARE SERVICES.**

20 The Secretary shall not—

21 (1) withhold, suspend, disallow, or otherwise
22 deny Federal financial participation under section
23 1903(a) of the Social Security Act (42 U.S.C.
24 1396b(a)) for adult day health care services or med-
25 ical adult day care services, as defined under a State

1 medicaid plan approved on or before 1982, if such
2 services are provided consistent with such definition
3 and the requirements of such plan; or

4 (2) withdraw Federal approval of any such
5 State plan or part thereof regarding the provision of
6 such services.

7 **SEC. 6039C. DEMONSTRATION PROJECT REGARDING MED-**
8 **ICAID COVERAGE OF LOW-INCOME HIV-IN-**
9 **FECTED INDIVIDUALS.**

10 (a) **REQUIREMENT TO CONDUCT DEMONSTRATION**
11 **PROJECT.—**

12 (1) **IN GENERAL.—**The Secretary shall establish
13 a demonstration project under which a State may
14 apply under section 1115 of the Social Security Act
15 (42 U.S.C. 1315) to provide medical assistance
16 under a State medicaid program to HIV-infected in-
17 dividuals described in subsection (b) in accordance
18 with the provisions of this section.

19 (2) **LIMITATION ON NUMBER OF APPROVED AP-**
20 **PLICATIONS.—**The Secretary shall only approve as
21 many State applications to provide medical assist-
22 ance in accordance with this section as will not ex-
23 ceed the limitation on aggregate payments under
24 subsection (d)(2)(A).

1 (3) AUTHORITY TO WAIVE RESTRICTIONS ON
2 PAYMENTS TO TERRITORIES.—The Secretary shall
3 waive the limitations on payment under subsections
4 (f) and (g) of section 1108 of the Social Security
5 Act (42 U.S.C. 1308) in the case of a State that is
6 subject to such limitations and submits an approved
7 application to provide medical assistance in accord-
8 ance with this section.

9 (b) HIV-INFECTED INDIVIDUALS DESCRIBED.—For
10 purposes of subsection (a), HIV-infected individuals de-
11 scribed in this subsection are individuals who are not de-
12 scribed in section 1902(a)(10)(A)(i) of the Social Security
13 Act (42 U.S.C. 1396a(a)(10)(A)(i))—

14 (1) who have HIV infection;

15 (2) whose income (as determined under the
16 State Medicaid plan with respect to disabled individ-
17 uals) does not exceed 200 percent of the poverty line
18 (as defined in section 2110(c)(5) of the Social Secu-
19 rity Act (42 U.S.C. 1397jj(c)(5)); and

20 (3) whose resources (as determined under the
21 State Medicaid plan with respect to disabled individ-
22 uals) do not exceed the maximum amount of re-
23 sources a disabled individual described in section
24 1902(a)(10)(A)(i) of such Act may have and obtain
25 medical assistance under such plan.

1 (c) LENGTH OF PERIOD FOR PROVISION OF MEDICAL
2 ASSISTANCE.—A State shall not be approved to provide
3 medical assistance to an HIV-infected individual in ac-
4 cordance with the demonstration project established under
5 this section for a period of more than 5 consecutive years.

6 (d) LIMITATIONS ON FEDERAL FUNDING.—

7 (1) APPROPRIATION.—

8 (A) IN GENERAL.—Out of any funds in the
9 Treasury not otherwise appropriated, there is
10 appropriated to carry out this section,
11 \$450,000,000 for the period of fiscal years
12 2006 through 2010.

13 (B) BUDGET AUTHORITY.—Subparagraph
14 (A) constitutes budget authority in advance of
15 appropriations Act and represents the obliga-
16 tion of the Federal Government to provide for
17 the payment of the amounts appropriated under
18 that subparagraph.

19 (2) LIMITATION ON PAYMENTS.—In no case
20 may—

21 (A) the aggregate amount of payments
22 made by the Secretary to eligible States under
23 this section exceed \$450,000,000; or

24 (B) payments be provided by the Secretary
25 under this section after September 30, 2010.

1 (3) FUNDS ALLOCATED TO STATES.—The Sec-
2 retary shall allocate funds to States with approved
3 applications under this section based on their appli-
4 cations and the availability of funds.

5 (4) PAYMENTS TO STATES.—The Secretary
6 shall pay to each State, from its allocation under
7 paragraph (3), an amount each quarter equal to the
8 enhanced Federal medical assistance percentage de-
9 scribed in section 2105(b) of the Social Security Act
10 (42 U.S.C. 1397ee(b)) of expenditures in the quarter
11 for medical assistance provided to HIV-infected indi-
12 viduals who are eligible for such assistance under a
13 State Medicaid program in accordance with the dem-
14 onstration project established under this section.

15 (e) EVALUATION AND REPORT.—

16 (1) EVALUATION.—The Secretary shall conduct
17 an evaluation of the demonstration project estab-
18 lished under this section. Such evaluation shall in-
19 clude an analysis of the cost-effectiveness of the
20 project and the impact of the project on the Medi-
21 care, Medicaid, and Supplemental Security Income
22 programs established under titles XVIII, XIX, and
23 XVI, respectively, of the Social Security Act (42
24 U.S.C. 1395 et seq., 1396 et seq., 1381 et seq.).

1 (2) REPORT TO CONGRESS.—Not later than De-
2 cember 31, 2010, the Secretary shall submit a re-
3 port to Congress on the results of the evaluation of
4 the demonstration project established under this sec-
5 tion.

6 (f) EFFECTIVE DATE.—This section shall take effect
7 on January 1, 2006.

8 **SEC. 6039D. ADDITIONAL INCREASE IN REBATE FOR SIN-**
9 **GLE SOURCE AND INNOVATOR MULTIPLE**
10 **SOURCE DRUGS.**

11 Section 1927(c)(1)(B)(i)(VI) (42 U.S.C. 1396r-
12 8(c)(1)(B)(i)(VI)), as added by section 6002(a)(3), is
13 amended by striking “17” and inserting “17.8”.

14 **CHAPTER 5—IMPROVING THE MEDICAID**
15 **AND STATE CHILDREN’S HEALTH IN-**
16 **SURANCE PROGRAMS**

17 **Subchapter A—Family Opportunity Act**

18 **SEC. 6041. SHORT TITLE OF SUBCHAPTER.**

19 This subchapter may be cited as the “Family Oppor-
20 tunity Act of 2005” or the “Dylan Lee James Act”.

1 **SEC. 6042. OPPORTUNITY FOR FAMILIES OF DISABLED**
 2 **CHILDREN TO PURCHASE MEDICAID COV-**
 3 **ERAGE FOR SUCH CHILDREN.**

4 (a) STATE OPTION TO ALLOW FAMILIES OF DIS-
 5 ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE
 6 FOR SUCH CHILDREN.—

7 (1) IN GENERAL.—Section 1902 (42 U.S.C.
 8 1396a) is amended—

9 (A) in subsection (a)(10)(A)(ii)—

10 (i) by striking “or” at the end of sub-
 11 clause (XVII);

12 (ii) by adding “or” at the end of sub-
 13 clause (XVIII); and

14 (iii) by adding at the end the fol-
 15 lowing new subclause:

16 “(XIX) who are disabled children
 17 described in subsection (cc)(1);”;

18 (B) by adding at the end the following new
 19 subsection:

20 “(cc)(1) Individuals described in this paragraph are
 21 individuals—

22 “(A) who are children who have not attained 19
 23 years of age and are born—

24 “(i) on or after January 1, 2002 (or, at
 25 the option of a State, on or after an earlier

1 date), in the case of the second, third, and
2 fourth quarters of fiscal year 2008;

3 “(ii) on or after October 1, 1996 (or, at
4 the option of a State, on or after an earlier
5 date), in the case of each quarter of fiscal year
6 2009; and

7 “(iii) after October 1, 1990, in the case of
8 each quarter of fiscal year 2010 and each quar-
9 ter of any fiscal year thereafter;

10 “(B) who would be considered disabled under
11 section 1614(a)(3)(C) but for having earnings or
12 deemed income or resources (as determined under
13 title XVI for children) that exceed the requirements
14 for receipt of supplemental security income benefits;
15 and

16 “(C) whose family income does not exceed such
17 income level as the State establishes and does not
18 exceed—

19 “(i) 300 percent of the poverty line (as de-
20 fined in section 2110(c)(5)) applicable to a fam-
21 ily of the size involved; or

22 “(ii) such higher percent of such poverty
23 line as a State may establish, except that—

24 “(I) any medical assistance provided
25 to an individual whose family income ex-

1 ceeds 300 percent of such poverty line may
2 only be provided with State funds; and

3 “(II) no Federal financial participa-
4 tion shall be provided under section
5 1903(a) for any medical assistance pro-
6 vided to such an individual.”.

7 (2) INTERACTION WITH EMPLOYER-SPONSORED
8 FAMILY COVERAGE.—Section 1902(cc) (42 U.S.C.
9 1396a(cc)), as added by paragraph (1)(B), is
10 amended by adding at the end the following new
11 paragraph:

12 “(2)(A) If an employer of a parent of an individual
13 described in paragraph (1) offers family coverage under
14 a group health plan (as defined in section 2791(a) of the
15 Public Health Service Act), the State shall—

16 “(i) require such parent to apply for, enroll in,
17 and pay premiums for such coverage as a condition
18 of such parent’s child being or remaining eligible for
19 medical assistance under subsection
20 (a)(10)(A)(ii)(XIX) if the parent is determined eligi-
21 ble for such coverage and the employer contributes
22 at least 50 percent of the total cost of annual pre-
23 miums for such coverage; and

24 “(ii) if such coverage is obtained—

1 “(I) subject to paragraph (2) of section
 2 1916(h), reduce the premium imposed by the
 3 State under that section in an amount that rea-
 4 sonably reflects the premium contribution made
 5 by the parent for private coverage on behalf of
 6 a child with a disability; and

7 “(II) treat such coverage as a third party
 8 liability under subsection (a)(25).

9 “(B) In the case of a parent to which subparagraph
 10 (A) applies, a State, subject to paragraph (1)(C)(ii), may
 11 provide for payment of any portion of the annual premium
 12 for such family coverage that the parent is required to
 13 pay. Any payments made by the State under this subpara-
 14 graph shall be considered, for purposes of section 1903(a),
 15 to be payments for medical assistance.”.

16 (b) STATE OPTION TO IMPOSE INCOME-RELATED
 17 PREMIUMS.—Section 1916 (42 U.S.C. 1396o) is
 18 amended—

19 (1) in subsection (a), by striking “subsection
 20 (g)” and inserting “subsections (g) and (h)”; and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(h)(1) With respect to disabled children provided
 24 medical assistance under section 1902(a)(10)(A)(ii)(XIX),
 25 subject to paragraph (2), a State may (in a uniform man-

1 ner for such children) require the families of such children
2 to pay monthly premiums set on a sliding scale based on
3 family income.

4 “(2) A premium requirement imposed under para-
5 graph (1) may only apply to the extent that—

6 “(A) in the case of a disabled child described in
7 that paragraph whose family income—

8 “(i) does not exceed 200 percent of the
9 poverty line, the aggregate amount of such pre-
10 mium and any premium that the parent is re-
11 quired to pay for family coverage under section
12 1902(cc)(2)(A)(i) and other cost-sharing
13 charges do not exceed 5 percent of the family’s
14 income; and

15 “(ii) exceeds 200, but does not exceed 300,
16 percent of the poverty line, the aggregate
17 amount of such premium and any premium that
18 the parent is required to pay for family cov-
19 erage under section 1902(cc)(2)(A)(i) and other
20 cost-sharing charges do not exceed 7.5 percent
21 of the family’s income; and

22 “(B) the requirement is imposed consistent with
23 section 1902(cc)(2)(A)(ii)(I).

24 “(3) A State shall not require prepayment of a pre-
25 mium imposed pursuant to paragraph (1) and shall not

1 terminate eligibility of a child under section
2 1902(a)(10)(A)(ii)(XIX) for medical assistance under this
3 title on the basis of failure to pay any such premium until
4 such failure continues for a period of at least 60 days from
5 the date on which the premium became past due. The
6 State may waive payment of any such premium in any
7 case where the State determines that requiring such pay-
8 ment would create an undue hardship.”.

9 (c) CONFORMING AMENDMENTS.—(1) Section
10 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the
11 matter preceding subparagraph (A), by inserting
12 “1902(a)(10)(A)(ii)(XIX),” after
13 “1902(a)(10)(A)(ii)(XVIII),”.

14 (2) Section 1905(u)(2)(B) (42 U.S.C.
15 1396d(u)(2)(B)) is amended by adding at the end the fol-
16 lowing sentence: “Such term excludes any child eligible for
17 medical assistance only by reason of section
18 1902(a)(10)(A)(ii)(XIX).”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to medical assistance for items and
21 services furnished on or after January 1, 2008.

1 **SEC. 6043. DEMONSTRATION PROJECTS REGARDING HOME**
2 **AND COMMUNITY-BASED ALTERNATIVES TO**
3 **PSYCHIATRIC RESIDENTIAL TREATMENT FA-**
4 **CILITIES FOR CHILDREN.**

5 (a) IN GENERAL.—The Secretary is authorized to
6 conduct, during each of fiscal years 2007 through 2011,
7 demonstration projects (each in the section referred to as
8 a “demonstration project”) in accordance with this section
9 under which up to 10 States (as defined for purposes of
10 title XIX of the Social Security Act) are awarded grants,
11 on a competitive basis, to test the effectiveness in improv-
12 ing or maintaining a child’s functional level and cost-effec-
13 tiveness of providing coverage of home and community-
14 based alternatives to psychiatric residential treatment for
15 children enrolled in the Medicaid program under title XIX
16 of such Act.

17 (b) APPLICATION OF TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—Subject to the provisions of
19 this section, for the purposes of the demonstration
20 projects, and only with respect to children enrolled
21 under such demonstration projects, a psychiatric res-
22 idential treatment facility (as defined in section
23 483.352 of title 42 of the Code of Federal Regula-
24 tions) shall be deemed to be a facility specified in
25 section 1915(c) of the Social Security Act (42
26 U.S.C. 1396n(c)), and to be included in each ref-

1 erence in such section 1915(c) to hospitals, nursing
2 facilities, and intermediate care facilities for the
3 mentally retarded.

4 (2) STATE OPTION TO ASSURE CONTINUITY OF
5 MEDICAID COVERAGE.—Upon the termination of a
6 demonstration project under this section, the State
7 that conducted the project may elect, only with re-
8 spect to a child who is enrolled in such project on
9 the termination date, to continue to provide medical
10 assistance for coverage of home and community-
11 based alternatives to psychiatric residential treat-
12 ment for the child in accordance with section
13 1915(e) of the Social Security Act (42 U.S.C.
14 1396n(c)), as modified through the application of
15 paragraph (1). Expenditures incurred for providing
16 such medical assistance shall be treated as a home
17 and community-based waiver program under section
18 1915(e) of the Social Security Act (42 U.S.C.
19 1396n(c)) for purposes of payment under section
20 1903 of such Act (42 U.S.C. 1396b).

21 (c) TERMS OF DEMONSTRATION PROJECTS.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this section, a demonstration project shall
24 be subject to the same terms and conditions as apply
25 to a waiver under section 1915(c) of the Social Se-

1 security Act (42 U.S.C. 1396n(c)), including the waiv-
2 er of certain requirements under the first sentence
3 of paragraph (3) of such section but not applying
4 the second sentence of such paragraph.

5 (2) BUDGET NEUTRALITY.—In conducting the
6 demonstration projects under this section, the Sec-
7 retary shall ensure that the aggregate payments
8 made by the Secretary under title XIX of the Social
9 Security Act (42 U.S.C. 1396 et seq.) do not exceed
10 the amount which the Secretary estimates would
11 have been paid under that title if the demonstration
12 projects under this section had not been imple-
13 mented.

14 (3) EVALUATION.—The application for a dem-
15 onstration project shall include an assurance to pro-
16 vide for such interim and final evaluations of the
17 demonstration project by independent third parties,
18 and for such interim and final reports to the Sec-
19 retary, as the Secretary may require.

20 (d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE
21 AND FUNDING.—

22 (1) IN GENERAL.—Subject to paragraph (2), a
23 demonstration project approved by the Secretary
24 under this section shall be treated as a home and
25 community-based waiver program under section

1 1915(e) of the Social Security Act (42 U.S.C.
2 1396n(c)) for purposes of payment under section
3 1903 of such Act (42 U.S.C. 1396b).

4 (2) LIMITATION.—In no case may the amount
5 of payments made by the Secretary under this sec-
6 tion for State demonstration projects for a fiscal
7 year exceed the amount available under subsection
8 (f)(2)(A) for such fiscal year.

9 (e) SECRETARY'S EVALUATION AND REPORT.—The
10 Secretary shall conduct an interim and final evaluation of
11 State demonstration projects under this section and shall
12 report to the President and Congress the conclusions of
13 such evaluations within 12 months of completing such
14 evaluations.

15 (f) FUNDING.—

16 (1) IN GENERAL.—For the purpose of carrying
17 out this section, there are appropriated, from
18 amounts in the Treasury not otherwise appropriated,
19 for fiscal years 2007 through 2011, a total of
20 \$218,000,000, of which—

21 (A) the amount specified in paragraph (2)
22 shall be available for each of fiscal years 2007
23 through 2011; and

1 (B) a total of \$1,000,000 shall be available
 2 to the Secretary for the evaluations and report
 3 under subsection (e).

4 (2) FISCAL YEAR LIMIT.—

5 (A) IN GENERAL.—For purposes of para-
 6 graph (1), the amount specified in this para-
 7 graph for a fiscal year is the amount specified
 8 in subparagraph (B) for the fiscal year plus the
 9 difference, if any, between the total amount
 10 available under this paragraph for prior fiscal
 11 years and the total amount previously expended
 12 under paragraph (1)(A) for such prior fiscal
 13 years.

14 (B) FISCAL YEAR AMOUNTS.—The amount
 15 specified in this subparagraph for—

- 16 (i) fiscal year 2007 is \$21,000,000;
 17 (ii) fiscal year 2008 is \$37,000,000;
 18 (iii) fiscal year 2009 is \$49,000,000;
 19 (iv) fiscal year 2010 is \$53,000,000;
 20 and
 21 (v) fiscal year 2011 is \$57,000,000.

22 **SEC. 6044. DEVELOPMENT AND SUPPORT OF FAMILY-TO-**
 23 **FAMILY HEALTH INFORMATION CENTERS.**

24 Section 501 (42 U.S.C. 701) is amended by adding
 25 at the end the following new subsection:

1 “(c)(1)(A) For the purpose of enabling the Secretary
2 (through grants, contracts, or otherwise) to provide for
3 special projects of regional and national significance for
4 the development and support of family-to-family health in-
5 formation centers described in paragraph (2)—

6 “(i) there is appropriated to the Secretary, out
7 of any money in the Treasury not otherwise
8 appropriated—

9 “(I) \$3,000,000 for fiscal year 2007;

10 “(II) \$4,000,000 for fiscal year 2008; and

11 “(III) \$5,000,000 for fiscal year 2009; and

12 “(ii) there is authorized to be appropriated to
13 the Secretary, \$5,000,000 for each of fiscal years
14 2010 and 2011.

15 “(B) Funds appropriated or authorized to be appro-
16 priated under subparagraph (A) shall—

17 “(i) be in addition to amounts appropriated
18 under subsection (a) and retained under section
19 502(a)(1) for the purpose of carrying out activities
20 described in subsection (a)(2); and

21 “(ii) remain available until expended.

22 “(2) The family-to-family health information centers
23 described in this paragraph are centers that—

24 “(A) assist families of children with disabilities
25 or special health care needs to make informed

1 choices about health care in order to promote good
2 treatment decisions, cost-effectiveness, and improved
3 health outcomes for such children;

4 “(B) provide information regarding the health
5 care needs of, and resources available for, such chil-
6 dren;

7 “(C) identify successful health delivery models
8 for such children;

9 “(D) develop with representatives of health care
10 providers, managed care organizations, health care
11 purchasers, and appropriate State agencies, a model
12 for collaboration between families of such children
13 and health professionals;

14 “(E) provide training and guidance regarding
15 caring for such children;

16 “(F) conduct outreach activities to the families
17 of such children, health professionals, schools, and
18 other appropriate entities and individuals; and

19 “(G) are staffed—

20 “(i) by such families who have expertise in
21 Federal and State public and private health
22 care systems; and

23 “(ii) by health professionals.

1 “(3) The Secretary shall develop family-to-family
2 health information centers described in paragraph (2) in
3 accordance with the following:

4 “(A) With respect to fiscal year 2007, such cen-
5 ters shall be developed in not less than 25 States.

6 “(B) With respect to fiscal year 2008, such
7 centers shall be developed in not less than 40 States.

8 “(C) With respect to fiscal year 2009 and each
9 fiscal year thereafter, such centers shall be developed
10 in all States.

11 “(4) The provisions of this title that are applicable
12 to the funds made available to the Secretary under section
13 502(a)(1) apply in the same manner to funds made avail-
14 able to the Secretary under paragraph (1)(A).

15 “(5) For purposes of this subsection, the term ‘State’
16 means each of the 50 States and the District of Colum-
17 bia.”.

18 **SEC. 6045. RESTORATION OF MEDICAID ELIGIBILITY FOR**

19 **CERTAIN SSI BENEFICIARIES.**

20 (a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) (42
21 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

22 (1) by inserting “(aa)” after “(II)”;

23 (2) by striking “) and” and inserting “and”;

24 (3) by striking “section or who are” and insert-
25 ing “section), (bb) who are”; and

1 (4) by inserting before the comma at the end
 2 the following: “, or (cc) who are under 21 years of
 3 age and with respect to whom supplemental security
 4 income benefits would be paid under title XVI if
 5 subparagraphs (A) and (B) of section 1611(c)(7)
 6 were applied without regard to the phrase ‘the first
 7 day of the month following’ ”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
 9 subsection (a) shall apply to medical assistance for items
 10 and services furnished on or after the date that is 1 year
 11 after the date of enactment of this Act.

12 **Subchapter B—State Children’s Health**
 13 **Insurance Program**

14 **SEC. 6051. RULES FOR AVAILABILITY, REDISTRIBUTION,**
 15 **AND EXTENDED AVAILABILITY OF ALLOT-**
 16 **MENTS FOR FISCAL YEARS 2003, 2004, AND**
 17 **2005.**

18 (a) **IN GENERAL.**—Section 2104 (42 U.S.C. 1397dd)
 19 is amended—

20 (1) by amending subsection (e) to read as fol-
 21 lows:

22 “(e) **AVAILABILITY OF AMOUNTS ALLOTTED.**—

23 “(1) **IN GENERAL.**—Except as provided in para-
 24 graph (2), amounts allotted to a State pursuant to
 25 this section—

1 “(A) for each of fiscal years 1998 through
 2 2003, and for fiscal year 2006 and each fiscal
 3 year thereafter, shall remain available for ex-
 4 penditure by the State through the end of the
 5 second succeeding fiscal year; and

6 “(B) for each of fiscal years 2004 and
 7 2005, shall remain available for expenditure by
 8 the State during the initial availability period
 9 (as defined in paragraph (3)(A)).

10 “(2) AVAILABILITY OF REALLOTMENTS, REDIS-
 11 TRIBUTED AMOUNTS, AND EXTENDED AVAIL-
 12 ABILITY.—

13 “(A) IN GENERAL.—Amounts reallocated to
 14 a State under subsection (f) shall be available
 15 for expenditure by the State through the end of
 16 the fiscal year in which they are reallocated.

17 “(B) AVAILABILITY OF REDISTRIBUTED
 18 FUNDS AND EXTENDED AVAILABILITY.—
 19 Amounts redistributed to a State under sub-
 20 section (i)(3) or (j)(3) and unused allotments of
 21 a State extended under subsection (i)(4) or
 22 (j)(4) are available for expenditure by the State
 23 during the redistribution/extension period (as
 24 defined in paragraph (3)(B)).

1 “(3) PERIODS DEFINED.—For purposes of this
2 section:

3 “(A) INITIAL AVAILABILITY PERIOD.—The
4 term ‘initial availability period’ means, with re-
5 spect to allotments for a fiscal year, the 2-fiscal
6 year period beginning with that fiscal year.

7 “(B) REDISTRIBUTION/EXTENSION PE-
8 RIOD.—The term ‘redistribution/extension pe-
9 riod’ means, with respect to allotments for a
10 fiscal year, the second year following that fiscal
11 year.”; and

12 (2) by adding at the end the following new sub-
13 sections:

14 “(h) RULE FOR REDISTRIBUTION OF FISCAL YEAR
15 2003 ALLOTMENTS.—

16 “(1) COMPUTATION OF UNEXPENDED ALLOT-
17 MENTS FOR FISCAL YEAR 2003.—The Secretary shall
18 determine—

19 “(A) the amount of each State’s allotment
20 under this section for fiscal year 2003 that was
21 not expended by the end of fiscal year 2005;
22 and

23 “(B) the total of the unexpended allot-
24 ments determined under subparagraph (A).

1 “(2) DETERMINATION OF INITIAL PROJECTED
2 SHORTFALLS FOR FISCAL YEAR 2006.—For each
3 State that receives an allotment for fiscal year 2006
4 under subsection (b), the Secretary shall determine
5 the following:

6 “(A) FISCAL YEAR 2005 CARRYOVER.—The
7 amount of the State’s allotment for 2005 that
8 was not expended in fiscal year 2005.

9 “(B) PROJECTED EXPENDITURES FOR FIS-
10 CAL YEAR 2006.—The estimated expenditures
11 for the State as would be reported as quarterly
12 expenditures under section 2105(a) for quarters
13 in fiscal year 2006.

14 “(C) INITIAL PROJECTED SHORTFALL FOR
15 FISCAL YEAR 2006.—The amount, if any, by
16 which the projected expenditures determined
17 under subparagraph (B) for the State for quar-
18 ters in fiscal year 2006 exceeds the sum of the
19 following:

20 “(i) FISCAL YEAR 2005 CARRYOVER.—
21 The amount determined under subpara-
22 graph (A) for the State.

23 “(ii) FISCAL YEAR 2006 ALLOT-
24 MENT.—The amount of the State’s allot-
25 ment for fiscal year 2006.

1 “(D) STATE’S PROPORTION OF AGGREGATE
2 SHORTFALL.—For each State for which there is
3 an excess determined under subparagraph (C),
4 the ratio of—

5 “(i) the amount of such excess; to

6 “(ii) the total of such excesses deter-
7 mined for all States with such an excess.

8 “(3) REDISTRIBUTION OF UNEXPENDED AL-
9 LOTMENTS FOR FISCAL YEAR 2003.—From the total
10 of the unexpended allotments for fiscal year 2003
11 determined under paragraph (1)(B) the Secretary
12 shall redistribute under subsection (f) the following:

13 “(A) STATES OTHER THAN TERRI-
14 TORIES.—There shall be redistributed to each
15 State for which there is an excess determined
16 under paragraph (2)(C) an amount equal to the
17 product of the following:

18 “(i) STATE REDISTRIBUTION POOL.—
19 The amount determined under paragraph
20 (1)(B), reduced by the total amount redis-
21 tributed under subparagraph (B).

22 “(ii) STATE’S SHORTFALL PROPOR-
23 TION.—The ratio described in paragraph
24 (2)(D) for that State.

1 “(B) TERRITORIES.—There shall be redis-
2 tributed to each commonwealth or territory de-
3 scribed in subsection (c)(3) an amount equal to
4 the product of the following:

5 “(i) TERRITORIAL REDISTRIBUTION
6 POOL.—1.05 percent of the amount deter-
7 mined under paragraph (1)(B).

8 “(ii) TERRITORIAL PROPORTION.—
9 The ratio of—

10 “(I) the allotment for fiscal year
11 2003 for such commonwealth or terri-
12 tory under subsection (c), to

13 “(II) the total of all such allot-
14 ments for such fiscal year for such
15 commonwealths or territories under
16 such subsection.

17 “(4) DETERMINATION OF AMOUNTS.—For pur-
18 poses of calculating the amounts described in—

19 “(A) paragraphs (1) and (2)(A), the Sec-
20 retary shall use the amounts reported by the
21 States not later than November 30, 2005, on
22 Form CMS-64 or Form CMS-21, as the case
23 may be, as approved by the Secretary; and

24 “(B) paragraph (2)(B), the Secretary shall
25 use the amounts reported by the States not

1 later than September 30, 2005, on Form CMS-
2 37 or Form CMS-21B, as the case may be, as
3 approved by the Secretary.

4 “(i) REDISTRIBUTION AND EXTENSION OF AVAIL-
5 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR
6 2004.—Notwithstanding subsection (f):

7 “(1) COMPUTATION OF UNEXPENDED ALLOT-
8 MENTS FOR FISCAL YEAR 2004.—

9 “(A) IN GENERAL.—The Secretary shall
10 determine with respect to each State that re-
11 ceives an allotment for fiscal year 2004 under
12 subsection (b)—

13 “(i) the amount of the State’s allot-
14 ment for such fiscal year that was not ex-
15 pended by the end of fiscal year 2005; and

16 “(ii) the total of the unexpended allot-
17 ments determined under clause (i).

18 “(B) REDUCTION OF UNEXPENDED AL-
19 LOTMENT BY NET FISCAL YEAR 2006 SHORT-
20 FALL.—

21 “(i) IN GENERAL.—In the case of a
22 State described in clause (ii), the Secretary
23 shall reduce, but not below 0, the amount
24 determined for the State under subpara-
25 graph (A)(i) (relating to the State’s unex-

1 pended allotment for fiscal year 2004) by
2 the amount of the allotment of the State
3 for which availability is extended under
4 paragraph (4)(A).

5 “(ii) STATE DESCRIBED.—A State de-
6 scribed in this clause is a State that meets
7 the following requirements:

8 “(I) FULLY SPENT FISCAL YEAR
9 2003 ALLOTMENT.—The State’s allot-
10 ment under this section for fiscal year
11 2003 was fully expended by the end of
12 fiscal year 2005.

13 “(II) DID NOT FULLY EXPEND
14 FISCAL YEAR 2004 ALLOTMENT BY
15 END OF FISCAL YEAR 2005.—The
16 State’s allotment under this section
17 for fiscal year 2004 was not fully ex-
18 pended by the end of fiscal year 2005.

19 “(III) PROJECTED FISCAL YEAR
20 2006 SHORTFALL.—The State has an
21 excess determined under subsection
22 (h)(2)(C) (relating to initial projected
23 fiscal year 2006 shortfall).

24 “(C) TOTALS AND RATIOS.—The Secretary
25 shall determine the following:

1 “(i) REDISTRIBUTION POOL.—A redis-
 2 tribution pool equal to the total of the
 3 amounts determined under subparagraph
 4 (A)(i), as reduced (if applicable) under
 5 subparagraph (B)(i).

6 “(ii) STATE PROPORTION TOWARD RE-
 7 DISTRIBUTION POOL.—For each State in
 8 which the amount determined under sub-
 9 paragraph (A)(i) (as reduced, if applicable,
 10 under subparagraph (B)(i)) exceeds 0, the
 11 ratio of—

12 “(I) such amount (as so reduced)
 13 for the State; to

14 “(II) the total determined under
 15 clause (i).

16 “(D) AMOUNT OF UNEXPENDED FISCAL
 17 YEAR 2004 ALLOTMENT APPLIED TO REDIS-
 18 TRIBUTIONS.—For each State described in sub-
 19 paragraph (C)(ii), the Secretary shall determine
 20 a redistribution/reduction amount equal to the
 21 product of the following:

22 “(i) TOTAL AMOUNT REDISTRIB-
 23 UTED.—The total amount redistributed
 24 under paragraph (3).

1 “(ii) STATE’S PROPORTION OF UNEX-
2 PENDED ALLOTMENTS.—The ratio for the
3 State determined under subparagraph
4 (C)(ii).

5 “(2) DETERMINATION OF NET PROJECTED
6 SHORTFALLS FOR FISCAL YEAR 2006.—For each
7 State that has an excess determined under sub-
8 section (h)(2)(C) (relating to initial projected fiscal
9 year 2006 shortfall), the Secretary shall determine
10 an amount equal to the amount determined under
11 such subsection, reduced by the sum of—

12 “(A) the amount redistributed to the State
13 under subsection (h)(3)(A), and

14 “(B) the amount of funds of the State for
15 which availability is extended under paragraph
16 (4)(A).

17 “(3) REDISTRIBUTION FROM REDISTRIBUTION
18 POOL.—From the redistribution pool determined
19 under paragraph (1)(C)(i)—

20 “(A) STATES OTHER THAN TERRI-
21 TORIES.—There shall be redistributed to each
22 State which has a net projected shortfall under
23 paragraph (2) an amount determined under
24 such paragraph for the State.

1 “(B) TERRITORIES.—There shall be redis-
2 tributed to each commonwealth or territory de-
3 scribed in subsection (c)(3) an amount equal to
4 the product of the following:

5 “(i) TERRITORIAL REDISTRIBUTION
6 POOL.—1.05 percent of the amount of
7 such unexpended allotments determined
8 under paragraph (1)(A)(ii).

9 “(ii) TERRITORIAL PROPORTION.—
10 The ratio of—

11 “(I) the allotment under sub-
12 section (c) for such commonwealth or
13 territory for fiscal year 2004, to

14 “(II) the total of all such allot-
15 ments for such commonwealths and
16 territories.

17 “(4) EXTENDED AVAILABILITY OF REMAINING
18 UNEXPENDED ALLOTMENTS.—

19 “(A) TO MEET NET SHORTFALL FOR FIS-
20 CAL YEAR 2006.—In the case of a State de-
21 scribed in paragraph (1)(B)(ii), the Secretary
22 shall extend the availability of funds from the
23 State’s allotment for fiscal year 2004 to the ex-
24 tent that—

1 “(i) the amount determined under
2 subsection (h)(2)(C) (relating to initial
3 shortfall for fiscal year 2006), exceeds

4 “(ii) the amount redistributed to the
5 State under subsection (h)(3)(A).

6 “(B) OTHER EXTENSIONS.—The Secretary
7 shall extend the availability of funds from allot-
8 ments for fiscal year 2004 for each State which
9 has an unexpended allotment for fiscal year
10 2004 determined under paragraph (1)(A) (as
11 reduced, if applicable, under paragraph (1)(B))
12 by an amount equal to the amount (if any) by
13 which—

14 “(i) the amount of such unexpended
15 allotment (as so reduced) for the State, ex-
16 ceeds

17 “(ii) the redistribution/reduction
18 amount determined under paragraph
19 (1)(D) for the State (relating to the por-
20 tion of the unexpended allotment applied
21 to redistributions).

22 “(5) DETERMINATION OF AMOUNTS.—For pur-
23 poses of calculating the amounts described in—

24 “(A) paragraph (1)(A)(i), the Secretary
25 shall use the amounts reported by the States

1 not later than November 30, 2005, on Form
 2 CMS-64 or Form CMS-21, as the case may be,
 3 as approved by the Secretary; and

4 “(B) paragraph (1)(B)(i), the Secretary
 5 shall use the amounts reported by the States
 6 not later than September 30, 2005, on Form
 7 CMS-37 or Form CMS-21B, as the case may
 8 be, as approved by the Secretary.

9 “(j) REDISTRIBUTION AND EXTENSION OF AVAIL-
 10 ABILITY OF UNUSED ALLOTMENTS FOR FISCAL YEAR
 11 2005.—Notwithstanding subsection (f):

12 “(1) COMPUTATION OF UNEXPENDED ALLOT-
 13 MENTS FOR FISCAL YEAR 2005.—

14 “(A) IN GENERAL.—The Secretary shall
 15 determine with respect to each State that re-
 16 ceives an allotment for fiscal year 2005 under
 17 subsection (b)—

18 “(i) the amount of the State’s allot-
 19 ment for fiscal year 2005 that was not ex-
 20 pended by the end of fiscal year 2006; and

21 “(ii) the total of the unexpended allot-
 22 ments determined under clause (i).

23 “(B) REDUCTION OF UNEXPENDED AL-
 24 LOTMENT BY NET FISCAL YEAR 2007 SHORT-
 25 FALL.—

1 “(i) IN GENERAL.—In the case of a
2 State described in clause (ii), the Secretary
3 shall reduce, but not below 0, the amount
4 determined for the State under subpara-
5 graph (A)(i) (relating to the State’s unex-
6 pended allotment for fiscal year 2005) by
7 the amount of the allotment of the State
8 for which availability is extended under
9 paragraph (4)(A).

10 “(ii) STATE DESCRIBED.—A State de-
11 scribed in this clause is a State that meets
12 the following requirements:

13 “(I) DID NOT FULLY EXPEND
14 FISCAL YEAR 2005 ALLOTMENT BY
15 END OF FISCAL YEAR 2006.—The
16 State’s allotment under this section
17 for fiscal year 2005 was not fully ex-
18 pended by the end of fiscal year 2006.

19 “(II) PROJECTED SHORTFALL
20 FOR FISCAL YEAR 2007.—The State
21 has an excess determined under para-
22 graph (2)(C) for fiscal year 2007 (re-
23 lating to initial projected fiscal year
24 2007 shortfall).

1 “(C) TOTALS AND RATIOS.—The Secretary
2 shall determine the following:

3 “(i) REDISTRIBUTION POOL.—A redis-
4 tribution pool equal to the total of the
5 amounts determined under subparagraph
6 (A)(i), as reduced (if applicable) under
7 subparagraph (B)(i).

8 “(ii) STATE PROPORTION TOWARD RE-
9 DISTRIBUTION POOL.—For each State in
10 which the amount determined under sub-
11 paragraph (A)(i) (as reduced, if applicable,
12 under subparagraph (B)(i)) exceeds 0, the
13 ratio of—

14 “(I) such amount (as so reduced)
15 for the State; to

16 “(II) the total determined under
17 clause (i).

18 “(D) AMOUNT OF UNEXPENDED FISCAL
19 YEAR 2005 ALLOTMENT APPLIED TO REDIS-
20 TRIBUTIONS.—For each State described in sub-
21 paragraph (C)(ii), the Secretary shall determine
22 a redistribution/reduction amount equal to the
23 product of the following:

1 “(i) TOTAL AMOUNT REDISTRIB-
2 UTED.—The total amount redistributed
3 under paragraph (3).

4 “(ii) STATE’S PROPORTION OF UNEX-
5 PENDED ALLOTMENTS.—The ratio for the
6 State determined under subparagraph
7 (C)(ii).

8 “(2) DETERMINATION OF INITIAL PROJECTED
9 SHORTFALLS FOR FISCAL YEAR 2007.—For each
10 State that receives an allotment for fiscal year 2007
11 under subsection (b), the Secretary shall determine
12 the following:

13 “(A) FISCAL YEAR 2006 CARRYOVER.—The
14 amount of the State’s allotment for fiscal year
15 2006 that was not expended in fiscal year 2006.

16 “(B) PROJECTED EXPENDITURES FOR FIS-
17 CAL YEAR 2007.—The estimated expenditures
18 for the State as would be reported as quarterly
19 expenditures under section 2105(a) for quarters
20 in fiscal year 2007.

21 “(C) INITIAL PROJECTED SHORTFALL FOR
22 FISCAL YEAR 2007.—The amount, if any, by
23 which the projected expenditures determined
24 under subparagraph (B) for the State for quar-

1 ters in fiscal year 2007 exceeds the sum of the
2 following:

3 “(i) FISCAL YEAR 2006 CARRYOVER.—

4 The amount determined under subpara-
5 graph (A) for the State.

6 “(ii) FISCAL YEAR 2007 ALLOT-

7 MENT.—The amount of the State’s allot-
8 ment for fiscal year 2007.

9 “(D) DETERMINATION OF NET PROJECTED

10 SHORTFALLS FOR FISCAL YEAR 2007.—For each

11 State that has an excess determined under sub-

12 paragraph (C), the Secretary shall determine an

13 amount equal to the amount determined under

14 such subparagraph, reduced by the amount of

15 funds (if any) of the State for which availability

16 is extended under paragraph (4)(A).

17 “(E) STATE’S PROPORTION OF NET AG-

18 GREGATE SHORTFALL.—For each State for

19 which there is a net excess determined under

20 subparagraph (D), the ratio of—

21 “(i) the amount of such net excess; to

22 “(ii) the total of such net excesses.

23 “(3) REDISTRIBUTION FROM REDISTRIBUTION

24 POOL.—From the redistribution pool determined

25 under paragraph (1)(C)(i)—

1 “(A) STATES OTHER THAN TERRI-
2 TORIES.—There shall be redistributed to each
3 State for which there is a net projected short-
4 fall under paragraph (2)(D) an amount equal
5 the lesser of the following:

6 “(i) NET FISCAL YEAR 2007 SHORT-
7 FALL.—The amount of the net excess de-
8 scribed in paragraph (2)(D) for the State.

9 “(ii) PORTION OF UNEXPENDED
10 FUNDS AVAILABLE.—The product of the
11 following:

12 “(I) STATE REDISTRIBUTION
13 POOL.—The amount determined
14 under paragraph (1)(C)(i), reduced by
15 the total amount redistributed under
16 subparagraph (B).

17 “(II) STATE’S SHORTFALL PRO-
18 PORTION.—The ratio described in
19 paragraph (2)(E) for that State.

20 “(B) TERRITORIES.—There shall be redis-
21 tributed to each commonwealth or territory de-
22 scribed in subsection (c)(3) an amount equal to
23 the product of the following:

24 “(i) TERRITORIAL REDISTRIBUTION
25 POOL.—1.05 percent of the total amount

1 of unexpended allotments determined
2 under paragraph (1)(A)(ii).

3 “(ii) TERRITORIAL PROPORTION.—

4 The ratio of—

5 “(I) the allotment under sub-
6 section (c) for such commonwealth or
7 territory for fiscal year 2005, to

8 “(II) the total of all such allot-
9 ments for such commonwealths and
10 territories.

11 “(4) EXTENDED AVAILABILITY OF REMAINING
12 UNEXPENDED ALLOTMENTS.—

13 “(A) TO MEET INITIAL PROJECTED
14 SHORTFALL FOR FISCAL YEAR 2007.—In the
15 case of a State that is described in paragraph
16 (1)(B)(ii), the Secretary shall extend the avail-
17 ability of funds from the State’s allotment for
18 fiscal year 2005 to the extent of the amount de-
19 scribed in paragraph (2)(C).

20 “(B) OTHER EXTENSIONS.—If the redis-
21 tribution pool amount determined under para-
22 graph (1)(C)(i) exceeds the total amount redis-
23 tributed under paragraph (3), the Secretary
24 shall extend the availability of funds from allot-
25 ments for fiscal year 2005 for each State which

1 has an unexpended allotment for that fiscal
2 year determined under paragraph (1)(A) (as re-
3 duced, if applicable, under paragraph (1)(B))
4 by an amount equal to the amount (if any) by
5 which—

6 “(i) the amount of the unexpended al-
7 lotment (as so reduced) for the State, ex-
8 ceeds

9 “(ii) the redistribution/reduction
10 amount determined under paragraph
11 (1)(D) for the State (relating to the por-
12 tion of the unexpended allotment applied
13 to redistributions).

14 “(5) DETERMINATION OF AMOUNTS.—For pur-
15 poses of calculating the amounts described in—

16 “(A) paragraph (1)(A), the Secretary shall
17 use the amounts reported by the States not
18 later than November 30, 2006, on Form CMS-
19 64 or Form CMS-21, as the case may be, as
20 approved by the Secretary; or

21 “(B) paragraph (2), the Secretary shall
22 use the amounts reported by the States not
23 later than September 30, 2006, on Form CMS-
24 37 or Form CMS-21B, as the case may be, as
25 approved by the Secretary.”.

1 (b) USE OF REDISTRIBUTED FUNDS FOR CHILD
 2 HEALTH ASSISTANCE FOR TARGETED LOW-INCOME
 3 CHILDREN.—Section 2105(a) (42 U.S.C. 1397ee(a)) is
 4 amended—

5 (1) in paragraph (1), in the matter preceding
 6 subparagraph (A), by inserting “or paragraph (3)”
 7 after “subparagraph (B)”; and

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

9 “(3) USE OF REDISTRIBUTED FUNDS FOR
 10 CHILD HEALTH ASSISTANCE FOR TARGETED LOW-IN-
 11 COME CHILDREN.—For purposes of paragraph (1),
 12 the expenditures described in this paragraph are ex-
 13 penditures that are not expenditures for child health
 14 assistance for targeted low-income children, but only
 15 if such expenditures are from any amounts redistrib-
 16 uted under subparagraphs (A) or (B) of subsection
 17 (h)(3), (i)(3), or (j)(3) of section 2104.”.

18 **SEC. 6052. AUTHORITY TO USE UP TO 10 PERCENT OF FIS-**
 19 **CAL YEAR 2006 AND 2007 ALLOTMENTS FOR**
 20 **OUTREACH.**

21 Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is
 22 amended by adding at the end the following:

23 “(C) USE OF UP TO 10 PERCENT OF 2006
 24 AND 2007 ALLOTMENTS FOR OUTREACH ACTIVI-
 25 TIES.—Notwithstanding subparagraph (A), a

1 State may use up to 10 percent of the allotment
 2 for the State for fiscal year 2006 and for fiscal
 3 year 2007 for expenditures incurred during the
 4 respective fiscal year for outreach activities as
 5 provided in section 2102(c)(1) under the plan.”.

6 **SEC. 6053. PROHIBITION AGAINST COVERING NONPREG-**
 7 **NANT CHILDLESS ADULTS WITH SCHIP**
 8 **FUNDS.**

9 (a) PROHIBITION ON USE OF SCHIP FUNDS.—Sec-
 10 tion 2107 (42 U.S.C. 1397gg) is amended by adding at
 11 the end the following:

12 “(f) LIMITATION OF WAIVER AUTHORITY.—Notwith-
 13 standing subsection (e)(2)(A) and section 1115(a), on and
 14 after the date of enactment of this subsection, the Sec-
 15 retary may not approve a waiver, experimental, pilot, or
 16 demonstration project that would allow funds made avail-
 17 able under this title to be used to provide child health as-
 18 sistance or other health benefits coverage to a nonpreg-
 19 nant childless adult. For purposes of the preceding sen-
 20 tence, a caretaker relative (as such term is defined for pur-
 21 poses of carrying out section 1931) shall not be considered
 22 a childless adult.”.

23 (b) CONFORMING AMENDMENTS.—Section
 24 2105(c)(1) (42 U.S.C. 1397ee(c)(1)) is amended—

1 (1) by inserting “and may not include coverage
2 of a nonpregnant childless adult” after “section
3 2101”); and

4 (2) by adding at the end the following: “For
5 purposes of the preceding sentence, a caretaker rel-
6 ative (as such term is defined for purposes of car-
7 rying out section 1931) shall not be considered a
8 childless adult.”.

9 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
10 tion or the amendments made by this section shall be con-
11 strued to—

12 (1) authorize the waiver of any provision of title
13 XIX or XXI of the Social Security Act (42 U.S.C.
14 1396 et seq., 1397aa et seq.) that is not otherwise
15 authorized to be waived under such titles or under
16 title XI of such Act (42 U.S.C. 1301 et seq.) as of
17 the date of enactment of this Act;

18 (2) imply congressional approval of any waiver,
19 experimental, pilot, or demonstration project affect-
20 ing funds made available under the State children’s
21 health insurance program under title XXI of the So-
22 cial Security Act (42 U.S.C. 1397aa et. seq.) or any
23 amendment to such a waiver or project that has
24 been approved as of such date of enactment; or

1 (3) apply to any waiver, experimental, pilot, or
2 demonstration project that would allow funds made
3 available under title XXI of the Social Security Act
4 (42 U.S.C. 1397aa et seq.) to be used to provide
5 child health assistance or other health benefits cov-
6 erage to a nonpregnant childless adult that is ap-
7 proved before the date of enactment of this Act or
8 to any extension, renewal, or amendment of such a
9 waiver or project that is approved on or after such
10 date of enactment.

11 **SEC. 6054. CONTINUED AUTHORITY FOR QUALIFYING**
12 **STATES TO USE CERTAIN FUNDS FOR MED-**
13 **ICAID EXPENDITURES.**

14 (a) IN GENERAL.—Section 2105(g)(1)(A) (42 U.S.C.
15 1397ee(g)(1)(A)) is amended by striking “or 2001” and
16 inserting “2001, 2004, or 2005”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to expenditures made under title
19 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)
20 on or after October 1, 2005.

21 **SEC. 6055. GRANTS TO PROMOTE INNOVATIVE OUTREACH**
22 **AND ENROLLMENT UNDER MEDICAID AND**
23 **SCHIP.**

24 Title XXI (42 U.S.C. 1397aa et seq.) is amended by
25 adding at the end the following:

1 **“SEC. 2111. EXPANDED OUTREACH ACTIVITIES.**

2 “(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH
3 AND ENROLLMENT EFFORTS.—

4 “(1) IN GENERAL.—The Secretary shall award
5 grants to eligible entities to—

6 “(A) conduct innovative outreach and en-
7 rollment efforts that are designed to increase
8 the enrollment and participation of eligible chil-
9 dren under this title and title XIX; and

10 “(B) promote understanding of the impor-
11 tance of health insurance coverage for prenatal
12 care and children.

13 “(2) PERFORMANCE BONUSES.—The Secretary
14 may reserve a portion of the funds appropriated
15 under subsection (g) for a fiscal year for the purpose
16 of awarding performance bonuses during the suc-
17 ceeding fiscal year to eligible entities that meet en-
18 rollment goals or other criteria established by the
19 Secretary.

20 “(b) PRIORITY FOR AWARD OF GRANTS.—

21 “(1) IN GENERAL.—In making grants under
22 subsection (a)(1), the Secretary shall give priority
23 to—

24 “(A) eligible entities that propose to target
25 geographic areas with high rates of—

1 “(i) eligible but unenrolled children,
2 including such children who reside in rural
3 areas; or

4 “(ii) racial and ethnic minorities and
5 health disparity populations, including
6 those proposals that address cultural and
7 linguistic barriers to enrollment; and

8 “(B) eligible entities that plan to engage in
9 outreach efforts with respect to individuals de-
10 scribed in subparagraph (A) and that are—

11 “(i) Federal health safety net organi-
12 zations; or

13 “(ii) faith-based organizations or con-
14 sortia.

15 “(2) 10 PERCENT SET ASIDE FOR OUTREACH
16 TO INDIAN CHILDREN.—An amount equal to 10 per-
17 cent of the funds appropriated under subsection (g)
18 for a fiscal year shall be used by the Secretary to
19 award grants to Indian Health Service providers and
20 urban Indian organizations receiving funds under
21 title V of the Indian Health Care Improvement Act
22 (25 U.S.C. 1651 et seq.) for outreach to, and enroll-
23 ment of, children who are Indians.

24 “(c) APPLICATION.—An eligible entity that desires to
25 receive a grant under subsection (a)(1) shall submit an

1 application to the Secretary in such form and manner, and
2 containing such information, as the Secretary may decide.

3 Such application shall include—

4 “(1) quality and outcomes performance meas-
5 ures to evaluate the effectiveness of activities funded
6 by a grant awarded under this section to ensure that
7 the activities are meeting their goals; and

8 “(2) an assurance that the entity shall—

9 “(A) conduct an assessment of the effec-
10 tiveness of such activities against such perform-
11 ance measures; and

12 “(B) cooperate with the collection and re-
13 porting of enrollment data and other informa-
14 tion determined as a result of conducting such
15 assessments to the Secretary, in such form and
16 manner as the Secretary shall require.

17 “(d) DISSEMINATION OF ENROLLMENT DATA AND
18 INFORMATION DETERMINED FROM EFFECTIVENESS AS-
19 SESSMENTS; ANNUAL REPORT.—The Secretary shall—

20 “(1) disseminate to eligible entities and make
21 publicly available the enrollment data and informa-
22 tion collected and reported in accordance with sub-
23 section (c)(2)(B); and

1 “(2) submit an annual report to Congress on
2 the outreach activities funded by grants awarded
3 under this section.

4 “(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds
5 awarded under this section shall be used to supplement,
6 not supplant, non-Federal funds that are otherwise avail-
7 able for activities funded under this section.

8 “(f) DEFINITIONS.—In this section:

9 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
10 tity’ means any of the following:

11 “(A) A State or local government.

12 “(B) A Federal health safety net organiza-
13 tion.

14 “(C) A national, local, or community-based
15 public or nonprofit private organization.

16 “(D) A faith-based organization or con-
17 sortia, to the extent that a grant awarded to
18 such an entity is consistent with the require-
19 ments of section 1955 of the Public Health
20 Service Act (42 U.S.C. 300x–65) relating to a
21 grant award to non-governmental entities.

22 “(E) An elementary or secondary school.

23 “(2) FEDERAL HEALTH SAFETY NET ORGANI-
24 ZATION.—The term ‘Federal health safety net orga-
25 nization’ means—

1 “(A) an Indian tribe, tribal organization,
2 or an urban Indian organization receiving funds
3 under title V of the Indian Health Care Im-
4 provement Act (25 U.S.C. 1651 et seq.), or an
5 Indian Health Service provider;

6 “(B) a Federally-qualified health center
7 (as defined in section 1905(l)(2)(B));

8 “(C) a hospital defined as a dispropor-
9 tionate share hospital for purposes of section
10 1923;

11 “(D) a covered entity described in section
12 340B(a)(4) of the Public Health Service Act
13 (42 U.S.C. 256b(a)(4)); and

14 “(E) any other entity or a consortium that
15 serves children under a federally-funded pro-
16 gram, including the special supplemental nutri-
17 tion program for women, infants, and children
18 (WIC) established under section 17 of the Child
19 Nutrition Act of 1966 (42 U.S.C. 1786), the
20 head start and early head start programs under
21 the Head Start Act (42 U.S.C. 9801 et seq.),
22 the school lunch program established under the
23 Richard B. Russell National School Lunch Act,
24 and an elementary or secondary school.

1 “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-
 2 ZATION; URBAN INDIAN ORGANIZATION.—The terms
 3 ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and
 4 ‘urban Indian organization’ have the meanings given
 5 such terms in section 4 of the Indian Health Care
 6 Improvement Act (25 U.S.C. 1603).

7 “(g) APPROPRIATION.—There is appropriated, out of
 8 any money in the Treasury not otherwise appropriated,
 9 \$25,000,000 for fiscal year 2007 for the purpose of
 10 awarding grants under this section. Amounts appropriated
 11 and paid under the authority of this section shall—

12 “(1) be in addition to amounts appropriated
 13 under section 2104 and paid to States in accordance
 14 with section 2105; and

15 “(2) not be subject to the limitation on expendi-
 16 tures described in section 2105(c)(2)(A).”.

17 **Subchapter C—Money Follows the Person**
 18 **Rebalancing Demonstration**

19 **SEC. 6061. MONEY FOLLOWS THE PERSON REBALANCING**
 20 **DEMONSTRATION.**

21 (a) PROGRAM PURPOSE AND AUTHORITY.—The Sec-
 22 retary is authorized to award, on a competitive basis,
 23 grants to States in accordance with this section for dem-
 24 onstration projects (each in this section referred to as an
 25 “MFP demonstration project”) designed to achieve the

1 following objectives with respect to institutional and home
2 and community-based long-term care services under State
3 Medicaid programs:

4 (1) REBALANCING.—Increase the use of home
5 and community-based, rather than institutional,
6 long-term care services.

7 (2) MONEY FOLLOWS THE PERSON.—Eliminate
8 barriers or mechanisms, whether in the State law,
9 the State Medicaid plan, the State budget, or other-
10 wise, that prevent or restrict the flexible use of Med-
11 icaid funds to enable Medicaid-eligible individuals to
12 receive support for appropriate and necessary long-
13 term services in the settings of their choice.

14 (3) CONTINUITY OF SERVICE.—Increase the
15 ability of the State Medicaid program to assure con-
16 tinued provision of home and community-based long-
17 term care services to eligible individuals who choose
18 to transition from an institutional to a community
19 setting.

20 (4) QUALITY ASSURANCE AND QUALITY IM-
21 PROVEMENT.—Ensure that procedures are in place
22 (at least comparable to those required under the
23 qualified HCB program) to provide quality assur-
24 ance for eligible individuals receiving Medicaid home
25 and community-based long-term care services and to

1 provide for continuous quality improvement in such
2 services.

3 (b) DEFINITIONS.—For purposes of this section:

4 (1) HOME AND COMMUNITY-BASED LONG-TERM
5 CARE SERVICES.—The term “home and community-
6 based long-term care services” means, with respect
7 to a State Medicaid program, home and community-
8 based services (including home health and personal
9 care services) that are provided under the State’s
10 qualified HCB program or that could be provided
11 under such a program but are otherwise provided
12 under the Medicaid program.

13 (2) ELIGIBLE INDIVIDUAL.—The term “eligible
14 individual” means, with respect to an MFP dem-
15 onstration project of a State, an individual in the
16 State—

17 (A) who, immediately before beginning
18 participation in the MFP demonstration
19 project—

20 (i) resides (and has resided, for a pe-
21 riod of not less than 6 months or for such
22 longer minimum period, not to exceed 2
23 years, as may be specified by the State) in
24 an inpatient facility;

1 (ii) is receiving Medicaid benefits for
2 inpatient services furnished by such inpa-
3 tient facility; and

4 (iii) with respect to whom a deter-
5 mination has been made that, but for the
6 provision of home and community-based
7 long-term care services, the individual
8 would continue to require the level of care
9 provided in an inpatient facility; and

10 (B) who resides in a qualified residence be-
11 ginning on the initial date of participation in
12 the demonstration project.

13 (3) INPATIENT FACILITY.—The term “inpatient
14 facility” means a hospital, nursing facility, or inter-
15 mediate care facility for the mentally retarded. Such
16 term includes an institution for mental diseases, but
17 only, with respect to a State, to the extent medical
18 assistance is available under the State Medicaid plan
19 for services provided by such institution.

20 (4) MEDICAID.—The term “Medicaid” means,
21 with respect to a State, the State program under
22 title XIX of the Social Security Act (including any
23 waiver or demonstration under such title or under
24 section 1115 of such Act relating to such title).

1 (5) QUALIFIED HCB PROGRAM.—The term
2 “qualified HCB program” means a program pro-
3 viding home and community-based long-term care
4 services operating under Medicaid, whether or not
5 operating under waiver authority.

6 (6) QUALIFIED RESIDENCE.—The term “quali-
7 fied residence” means, with respect to an eligible
8 individual—

9 (A) a home owned or leased by the indi-
10 vidual or the individual’s family member;

11 (B) an apartment with an individual lease,
12 with lockable access and egress, and which in-
13 cludes living, sleeping, bathing, and cooking
14 areas over which the individual or the individ-
15 ual’s family has domain and control; and

16 (C) a residence, in a community-based res-
17 idential setting, in which no more than 4 unre-
18 lated individuals reside.

19 (7) QUALIFIED EXPENDITURES.—The term
20 “qualified expenditures” means expenditures by the
21 State under its MFP demonstration project for
22 home and community-based long-term care services
23 for an eligible individual participating in the MFP
24 demonstration project, but only with respect to serv-
25 ices furnished during the 12-month period beginning

1 on the date the individual is discharged from an in-
2 patient facility referred to in paragraph (2)(A)(i).

3 (8) SELF-DIRECTED SERVICES.—The term
4 “self-directed” means, with respect to home and
5 community-based long-term care services for an eli-
6 gible individual, such services for the individual
7 which are planned and purchased under the direc-
8 tion and control of such individual or the individ-
9 ual’s authorized representative (as defined by the
10 Secretary), including the amount, duration, scope,
11 provider, and location of such services, under the
12 State Medicaid program consistent with the fol-
13 lowing requirements:

14 (A) ASSESSMENT.—There is an assess-
15 ment of the needs, capabilities, and preferences
16 of the individual with respect to such services.

17 (B) SERVICE PLAN.—Based on such as-
18 sessment, there is developed jointly with such
19 individual or the individual’s authorized rep-
20 resentative a plan for such services for such in-
21 dividual that is approved by the State and
22 that—

23 (i) specifies those services, if any,
24 which the individual or the individual’s au-

1 thorized representative would be respon-
2 sible for directing;

3 (ii) identifies the methods by which
4 the individual or the individual's author-
5 ized representative or an agency designated
6 by an individual or representative will se-
7 lect, manage, and dismiss providers of such
8 services;

9 (iii) specifies the role of family mem-
10 bers and others whose participation is
11 sought by the individual or the individual's
12 authorized representative with respect to
13 such services;

14 (iv) is developed through a person-
15 centered process that—

16 (I) is directed by the individual
17 or the individual's authorized rep-
18 resentative;

19 (II) builds upon the individual's
20 capacity to engage in activities that
21 promote community life and that re-
22 spects the individual's preferences,
23 choices, and abilities; and

24 (III) involves families, friends,
25 and professionals as desired or re-

1 quired by the individual or the indi-
2 vidual's authorized representative;

3 (v) includes appropriate risk manage-
4 ment techniques that recognize the roles
5 and sharing of responsibilities in obtaining
6 services in a self-directed manner and as-
7 sure the appropriateness of such plan
8 based upon the resources and capabilities
9 of the individual or the individual's author-
10 ized representative; and

11 (vi) may include an individualized
12 budget which identifies the dollar value of
13 the services and supports under the control
14 and direction of the individual or the indi-
15 vidual's authorized representative.

16 (C) BUDGET PROCESS.—With respect to
17 individualized budgets described in subpara-
18 graph (B)(vi), the State application under sub-
19 section (c)—

20 (i) describes the method for calcu-
21 lating the dollar values in such budgets
22 based on reliable costs and service utiliza-
23 tion;

24 (ii) defines a process for making ad-
25 justments in such dollar values to reflect

1 changes in individual assessments and
2 service plans; and

3 (iii) provides a procedure to evaluate
4 expenditures under such budgets.

5 (9) STATE.—The term “State” has the mean-
6 ing given such term for purposes of title XIX of the
7 Social Security Act.

8 (c) STATE APPLICATION.—A State seeking approval
9 of an MFP demonstration project shall submit to the Sec-
10 retary, at such time and in such format as the Secretary
11 requires, an application meeting the following require-
12 ments and containing such additional information, provi-
13 sions, and assurances, as the Secretary may require:

14 (1) ASSURANCE OF A PUBLIC DEVELOPMENT
15 PROCESS.—The application contains an assurance
16 that the State has engaged, and will continue to en-
17 gage, in a public process for the design, develop-
18 ment, and evaluation of the MFP demonstration
19 project that allows for input from eligible individ-
20 uals, the families of such individuals, authorized rep-
21 resentatives of such individuals, providers, and other
22 interested parties.

23 (2) OPERATION IN CONNECTION WITH QUALI-
24 FIED HCB PROGRAM TO ASSURE CONTINUITY OF
25 SERVICES.—The State will conduct the MFP dem-

1 onstration project for eligible individuals in conjunc-
2 tion with the operation of a qualified HCB program
3 that is in operation (or approved) in the State for
4 such individuals in a manner that assures continuity
5 of Medicaid coverage for such individuals so long as
6 such individuals continue to be eligible for medical
7 assistance.

8 (3) DEMONSTRATION PROJECT PERIOD.—The
9 application shall specify the period of the MFP dem-
10 onstration project, which shall include at least 2 con-
11 secutive fiscal years in the 5-fiscal-year period begin-
12 ning with fiscal year 2009.

13 (4) SERVICE AREA.—The application shall
14 specify the service area or areas of the MFP dem-
15 onstration project, which may be a statewide area or
16 one or more geographic areas of the State.

17 (5) TARGETED GROUPS AND NUMBERS OF INDI-
18 VIDUALS SERVED.—The application shall specify—

19 (A) the target groups of eligible individuals
20 to be assisted to transition from an inpatient
21 facility to a qualified residence during each fis-
22 cal year of the MFP demonstration project;

23 (B) the projected numbers of eligible indi-
24 viduals in each targeted group of eligible indi-

1 viduals to be so assisted during each such year;
2 and

3 (C) the estimated total annual qualified ex-
4 penditures for each fiscal year of the MFP
5 demonstration project.

6 (6) INDIVIDUAL CHOICE, CONTINUITY OF
7 CARE.—The application shall contain assurances
8 that—

9 (A) each eligible individual or the individ-
10 ual's authorized representative will be provided
11 the opportunity to make an informed choice re-
12 garding whether to participate in the MFP
13 demonstration project;

14 (B) each eligible individual or the individ-
15 ual's authorized representative will choose the
16 qualified residence in which the individual will
17 reside and the setting in which the individual
18 will receive home and community-based long-
19 term care services;

20 (C) the State will continue to make avail-
21 able, so long as the State operates its qualified
22 HCB program consistent with applicable re-
23 quirements, home and community-based long-
24 term care services to each individual who com-
25 pletes participation in the MFP demonstration

1 project for as long as the individual remains eli-
2 gible for medical assistance for such services
3 under such qualified HCB program (including
4 meeting a requirement relating to requiring a
5 level of care provided in an inpatient facility
6 and continuing to require such services).

7 (7) REBALANCING.—The application shall—

8 (A) provide such information as the Sec-
9 retary may require concerning the dollar
10 amounts of State Medicaid expenditures for the
11 fiscal year, immediately preceding the first fis-
12 cal year of the State's MFP demonstration
13 project, for long-term care services and the per-
14 centage of such expenditures that were for in-
15 stitutional long-term care services or were for
16 home and community-based long-term care
17 services;

18 (B)(i) specify the methods to be used by
19 the State to increase, for each fiscal year dur-
20 ing the MFP demonstration project, the dollar
21 amount of such total expenditures for home and
22 community-based long-term care services and
23 the percentage of such total expenditures for
24 long-term care services that are for home and
25 community-based long-term care services; and

1 (ii) describe the extent to which the MFP
2 demonstration project will contribute to accom-
3 plishment of objectives described in subsection
4 (a).

5 (8) MONEY FOLLOWS THE PERSON.—The appli-
6 cation shall describe the methods to be used by the
7 State to eliminate any legal, budgetary, or other bar-
8 riers to flexibility in the availability of Medicaid
9 funds to pay for long-term care services for eligible
10 individuals participating in the project in the appro-
11 priate settings of their choice, including costs to
12 transition from an institutional setting to a qualified
13 residence.

14 (9) MAINTENANCE OF EFFORT AND COST-EF-
15 FECTIVENESS.—The application shall contain or be
16 accompanied by such information and assurances as
17 may be required to satisfy the Secretary that—

18 (A) total expenditures under the State
19 Medicaid program for home and community-
20 based long-term care services will not be less
21 for any fiscal year during the MFP demonstra-
22 tion project than for the greater of such ex-
23 penditures for—

24 (i) fiscal year 2005; or

1 (ii) any succeeding fiscal year before
2 the first year of the MFP demonstration
3 project; and

4 (B) in the case of a qualified HCB pro-
5 gram operating under a waiver under sub-
6 section (c) or (d) of section 1915 of the Social
7 Security Act (42 U.S.C. 1396n), but for the
8 amount awarded under a grant under this sec-
9 tion, the State program would continue to meet
10 the cost-effectiveness requirements of subsection
11 (c)(2)(D) of such section or comparable require-
12 ments under subsection (d)(5) of such section,
13 respectively.

14 (10) WAIVER REQUESTS.—The application shall
15 contain or be accompanied by requests for any modi-
16 fication or adjustment of waivers of Medicaid re-
17 quirements described in subsection (d)(3), including
18 adjustments to the maximum numbers of individuals
19 included and package of benefits, including one-time
20 transitional services, provided.

21 (11) QUALITY ASSURANCE AND QUALITY IM-
22 PROVEMENT.—The application shall include—

23 (A) a plan satisfactory to the Secretary for
24 quality assurance and quality improvement for
25 home and community-based long-term care

1 services under the State Medicaid program, in-
2 cluding a plan to assure the health and welfare
3 of individuals participating in the MFP dem-
4 onstration project; and

5 (B) an assurance that the State will co-
6 operate in carrying out activities under sub-
7 section (f) to develop and implement continuous
8 quality assurance and quality improvement sys-
9 tems for home and community-based long-term
10 care services.

11 (12) OPTIONAL PROGRAM FOR SELF-DIRECTED
12 SERVICES.—If the State elects to provide for any
13 home and community-based long-term care services
14 as self-directed services (as defined in subsection
15 (b)(8)) under the MFP demonstration project, the
16 application shall provide the following:

17 (A) MEETING REQUIREMENTS.—A descrip-
18 tion of how the project will meet the applicable
19 requirements of such subsection for the provi-
20 sion of self-directed services.

21 (B) VOLUNTARY ELECTION.—A description
22 of how eligible individuals will be provided with
23 the opportunity to make an informed election to
24 receive self-directed services under the project
25 and after the end of the project.

1 (C) STATE SUPPORT IN SERVICE PLAN DE-
2 VELOPMENT.—Satisfactory assurances that the
3 State will provide support to eligible individuals
4 who self-direct in developing and implementing
5 their service plans.

6 (D) OVERSIGHT OF RECEIPT OF SERV-
7 ICES.—Satisfactory assurances that the State
8 will provide oversight of eligible individual's re-
9 ceipt of such self-directed services, including
10 steps to assure the quality of services provided
11 and that the provision of such services are con-
12 sistent with the service plan under such sub-
13 section.

14 Nothing in this section shall be construed as requir-
15 ing a State to make an election under the project to
16 provide for home and community-based long-term
17 care services as self-directed services, or as requiring
18 an individual to elect to receive self-directed services
19 under the project.

20 (13) REPORTS AND EVALUATION.—The applica-
21 tion shall provide that—

22 (A) the State will furnish to the Secretary
23 such reports concerning the MFP demonstra-
24 tion project, on such timetable, in such uniform
25 format, and containing such information as the

1 Secretary may require, as will allow for reliable
2 comparisons of MFP demonstration projects
3 across States; and

4 (B) the State will participate in and co-
5 operate with the evaluation of the MFP dem-
6 onstration project.

7 (d) SECRETARY'S AWARD OF COMPETITIVE
8 GRANTS.—

9 (1) IN GENERAL.—The Secretary shall award
10 grants under this section on a competitive basis to
11 States selected from among those with applications
12 meeting the requirements of subsection (c), in ac-
13 cordance with the provisions of this subsection.

14 (2) SELECTION AND MODIFICATION OF STATE
15 APPLICATIONS.—In selecting State applications for
16 the awarding of such a grant, the Secretary—

17 (A) shall take into consideration the man-
18 ner in which, and extent to which, the State
19 proposes to achieve the objectives specified in
20 subsection (a);

21 (B) shall seek to achieve an appropriate
22 national balance in the numbers of eligible indi-
23 viduals, within different target groups of eligi-
24 ble individuals, who are assisted to transition to
25 qualified residences under MFP demonstration

1 projects, and in the geographic distribution of
2 States operating MFP demonstration projects;

3 (C) shall give preference to State applica-
4 tions proposing—

5 (i) to provide transition assistance to
6 eligible individuals within multiple target
7 groups; and

8 (ii) to provide eligible individuals with
9 the opportunity to receive home and com-
10 munity-based long-term care services as
11 self-directed services, as defined in sub-
12 section (b)(8); and

13 (D) shall take such objectives into consid-
14 eration in setting the annual amounts of State
15 grant awards under this section.

16 (3) WAIVER AUTHORITY.—The Secretary is au-
17 thorized to waive the following provisions of title
18 XIX of the Social Security Act, to the extent nec-
19 essary to enable a State initiative to meet the re-
20 quirements and accomplish the purposes of this sec-
21 tion:

22 (A) STATEWIDENESS.—Section
23 1902(a)(1), in order to permit implementation
24 of a State initiative in a selected area or areas
25 of the State.

1 (B) COMPARABILITY.—Section
2 1902(a)(10)(B), in order to permit a State ini-
3 tiative to assist a selected category or categories
4 of individuals described in subsection (b)(2)(A).

5 (C) INCOME AND RESOURCES ELIGI-
6 BILITY.—Section 1902(a)(10)(C)(i)(III), in
7 order to permit a State to apply institutional
8 eligibility rules to individuals transitioning to
9 community-based care.

10 (D) PROVIDER AGREEMENTS.—Section
11 1902(a)(27), in order to permit a State to im-
12 plement self-directed services in a cost-effective
13 manner.

14 (4) CONDITIONAL APPROVAL OF OUTYEAR
15 GRANT.—In awarding grants under this section, the
16 Secretary shall condition the grant for the second
17 and any subsequent fiscal years of the grant period
18 on the following:

19 (A) NUMERICAL BENCHMARKS.—The
20 State must demonstrate to the satisfaction of
21 the Secretary that it is meeting numerical
22 benchmarks specified in the grant agreement
23 for—

1 (i) increasing State Medicaid support
2 for home and community-based long-term
3 care services under subsection (c)(5); and

4 (ii) numbers of eligible individuals as-
5 sisted to transition to qualified residences.

6 (B) QUALITY OF CARE.—The State must
7 demonstrate to the satisfaction of the Secretary
8 that it is meeting the requirements under sub-
9 section (c)(11) to assure the health and welfare
10 of MFP demonstration project participants.

11 (e) PAYMENTS TO STATES; CARRYOVER OF UNUSED
12 GRANT AMOUNTS.—

13 (1) PAYMENTS.—For each calendar quarter in
14 a fiscal year during the period a State is awarded
15 a grant under subsection (d), the Secretary shall pay
16 to the State from its grant award for such fiscal
17 year an amount equal to the lesser of—

18 (A) 90 percent of the amount of qualified
19 expenditures made during such quarter; or

20 (B) the total amount remaining in such
21 grant award for such fiscal year (taking into
22 account the application of paragraph (2)).

23 (2) CARRYOVER OF UNUSED AMOUNTS.—Any
24 portion of a State grant award for a fiscal year
25 under this section remaining at the end of such fis-

1 cal year shall remain available to the State for the
2 next 4 fiscal years, subject to paragraph (3).

3 (3) REAWARDING OF CERTAIN UNUSED
4 AMOUNTS.—In the case of a State that the Sec-
5 retary determines pursuant to subsection (d)(4) has
6 failed to meet the conditions for continuation of a
7 MFP demonstration project under this section in a
8 succeeding year or years, the Secretary shall rescind
9 the grant awards for such succeeding year or years,
10 together with any unspent portion of an award for
11 prior years, and shall add such amounts to the ap-
12 propriation for the immediately succeeding fiscal
13 year for grants under this section.

14 (4) PREVENTING DUPLICATION OF PAYMENT.—
15 The payment under a MFP demonstration project
16 with respect to qualified expenditures shall be in lieu
17 of any payment with respect to such expenditures
18 that could otherwise be paid under Medicaid, includ-
19 ing under section 1903(a) of the Social Security Act.
20 Nothing in the previous sentence shall be construed
21 as preventing the payment under Medicaid for such
22 expenditures in a grant year after amounts available
23 to pay for such expenditures under the MFP dem-
24 onstration project have been exhausted.

1 (f) QUALITY ASSURANCE AND IMPROVEMENT; TECH-
2 NICAL ASSISTANCE; OVERSIGHT.—

3 (1) IN GENERAL.—The Secretary, either di-
4 rectly or by grant or contract, shall provide for tech-
5 nical assistance to, and oversight of, States for pur-
6 poses of upgrading quality assurance and quality im-
7 provement systems under Medicaid home and com-
8 munity-based waivers, including—

9 (A) dissemination of information on prom-
10 ising practices;

11 (B) guidance on system design elements
12 addressing the unique needs of participating
13 beneficiaries;

14 (C) ongoing consultation on quality, in-
15 cluding assistance in developing necessary tools,
16 resources, and monitoring systems; and

17 (D) guidance on remedying programmatic
18 and systemic problems.

19 (2) FUNDING.—From the amounts appro-
20 priated under subsection (h)(1) for the portion of
21 fiscal year 2009 that begins on January 1, 2009,
22 and ends on September 30, 2009, and for fiscal year
23 2010, not more than \$2,400,000 shall be available
24 to the Secretary to carry out this subsection during

1 the period that begins on January 1, 2009, and ends
2 on September 30, 2013.

3 (g) RESEARCH AND EVALUATION.—

4 (1) IN GENERAL.—The Secretary, directly or
5 through grant or contract, shall provide for research
6 on, and a national evaluation of, the program under
7 this section, including assistance to the Secretary in
8 preparing the final report required under paragraph
9 (2). The evaluation shall include an analysis of pro-
10 jected and actual savings related to the transition of
11 individuals to qualified residences in each State con-
12 ducting an MFP demonstration project.

13 (2) FINAL REPORT.—The Secretary shall make
14 a final report to the President and Congress, not
15 later than September 30, 2013, reflecting the eval-
16 uation described in paragraph (1) and providing
17 findings and conclusions on the conduct and effec-
18 tiveness of MFP demonstration projects.

19 (3) FUNDING.—From the amounts appro-
20 priated under subsection (h)(1) for each of fiscal
21 years 2010 through 2013, not more than \$1,100,000
22 per year shall be available to the Secretary to carry
23 out this subsection.

24 (h) APPROPRIATIONS.—

1 (1) IN GENERAL.—There are appropriated,
2 from any funds in the Treasury not otherwise appro-
3 priated, for grants to carry out this section—

4 (A) \$250,000,000 for the portion of fiscal
5 year 2009 beginning on January 1, 2009, and
6 ending on September 30, 2009;

7 (B) \$300,000,000 for fiscal year 2010;

8 (C) \$350,000,000 for fiscal year 2011;

9 (D) \$400,000,000 for fiscal year 2012;

10 and

11 (E) \$450,000,000 for fiscal year 2013.

12 (2) AVAILABILITY.—Amounts made available
13 under paragraph (1) for a fiscal year shall remain
14 available for the awarding of grants to States by not
15 later than September 30, 2013.

16 **CHAPTER 6—OPTION FOR HURRICANE**
17 **KATRINA DISASTER STATES TO DELAY**
18 **APPLICATION**

19 **SEC. 6071. OPTION FOR HURRICANE KATRINA DISASTER**
20 **STATES TO DELAY APPLICATION.**

21 Notwithstanding any provision of this subtitle, or any
22 amendment made by this subtitle, the State of Louisiana,
23 Mississippi, or Alabama may elect to not have the provi-
24 sions of this subtitle, or of any amendment made by this
25 subtitle, apply with respect to the State during any period

1 for which a major disaster declared in accordance with
 2 section 401 of the Robert T. Stafford Disaster Relief and
 3 Emergency Assistance Act (42 U.S.C. 5170) with respect
 4 to a parish, in the case of Louisiana, or a county, in the
 5 case of Mississippi or Alabama, as a result of Hurricane
 6 Katrina is in effect.

7 **Subtitle B—Medicare**

8 **SEC. 6101. IMPROVEMENTS TO THE MEDICARE-DEPENDENT** 9 **HOSPITAL (MDH) PROGRAM.**

10 (a) 5-YEAR EXTENSION.—

11 (1) EXTENSION OF PAYMENT METHOD-
 12 OLOGY.—Section 1886(d)(5)(G) (42 U.S.C.
 13 1395ww(d)(5)(G)) is amended—

14 (A) in clause (i), by striking “October 1,
 15 2006” and inserting “October 1, 2011”; and

16 (B) in clause (ii)(II)—

17 (i) by striking “October 1, 2006” and
 18 inserting “October 1, 2011”; and

19 (ii) by inserting “or for discharges in
 20 the fiscal year” after “for the cost report-
 21 ing period”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) EXTENSION OF TARGET AMOUNT.—
 24 Section 1886(b)(3)(D) (42 U.S.C.
 25 1395ww(b)(3)(D)) is amended—

1 (i) in the matter preceding clause

2 (i)—

3 (I) by striking “beginning” and
4 inserting “occurring”; and

5 (II) by striking “October 1,
6 2006” and inserting “October 1,
7 2011”; and

8 (ii) in clause (iv), by striking
9 “through fiscal year 2005” and inserting
10 “through fiscal year 2011”.

11 (B) PERMITTING HOSPITALS TO DECLINE
12 RECLASSIFICATION.—Section 13501(e)(2) of
13 the Omnibus Budget Reconciliation Act of 1993
14 (42 U.S.C. 1395ww note) is amended by strik-
15 ing “through fiscal year 2005” and inserting
16 “through fiscal year 2011”.

17 (b) OPTION TO USE OF 2002 AS BASE YEAR.—Sec-
18 tion 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

19 (1) in subparagraph (D), by inserting “subject
20 to subparagraph (K),” after “(d)(5)(G),”; and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(K)(i) With respect to discharges occurring on or
24 after October 1, 2006, in the case of a medicare-depend-

1 ent, small rural hospital, for purposes of applying sub-
2 paragraph (D)—

3 “(I) there shall be substituted for the base cost
4 reporting period described in subparagraph (D)(i)
5 the 12-month cost reporting period beginning during
6 fiscal year 2002; and

7 “(II) any reference in such subparagraph to the
8 ‘first cost reporting period’ described in such sub-
9 paragraph is deemed a reference to the first cost re-
10 porting period beginning on or after October 1,
11 2006.

12 “(ii) This subparagraph shall only apply to a hospital
13 if the substitution described in clause (i)(I) results in an
14 increase in the target amount under subparagraph (D) for
15 the hospital.”.

16 (c) ENHANCED PAYMENT FOR AMOUNT BY WHICH
17 THE TARGET EXCEEDS THE PPS RATE.—Section
18 1886(d)(5)(G)(ii)(II) (42 U.S.C.
19 1395ww(d)(5)(G)(iv)(II)) is amended by inserting “(or 75
20 percent in the case of discharges occurring on or after Oc-
21 tober 1, 2006)” after “50 percent”.

22 (d) ENHANCED DISPROPORTIONATE SHARE HOS-
23 PITAL (DSH) TREATMENT FOR MEDICARE DEPENDENT
24 HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) (42 U.S.C.
25 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting “or, in

1 the case of discharges occurring on or after October 1,
 2 2006, as a medicare-dependent, small rural hospital under
 3 subparagraph (G)(iv)” before the period at the end.

4 **SEC. 6102. REDUCTION IN PAYMENTS TO SKILLED NURSING**
 5 **FACILITIES FOR BAD DEBT.**

6 (a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C.
 7 1395x(v)(1)) is amended by adding at the end the fol-
 8 lowing new subparagraph:

9 “(V) In determining such reasonable costs for skilled
 10 nursing facilities with respect to services furnished on or
 11 after October 1, 2005, the amount of bad debts otherwise
 12 treated as allowed costs which are attributable to the
 13 deductibles and coinsurance amounts under this title shall
 14 be reduced by 30 percent of such amount otherwise allow-
 15 able.”.

16 (b) TECHNICAL AMENDMENT.—Section
 17 1861(v)(1)(T) (42 U.S.C. 1395x(v)(1)(T)) is amended by
 18 striking “section 1833(t)(5)(B)” and inserting “section
 19 1833(t)(8)(B)”.

20 **SEC. 6103. TWO-YEAR EXTENSION OF THE 50 PERCENT COM-**
 21 **PLIANCE THRESHOLD USED TO DETERMINE**
 22 **WHETHER A HOSPITAL OR UNIT OF A HOS-**
 23 **PITAL IS AN INPATIENT REHABILITATION FA-**
 24 **CILITY UNDER THE MEDICARE PROGRAM.**

25 (a) EXTENSION.—

1 (1) IN GENERAL.—Effective as if enacted on
2 June 30, 2005, notwithstanding section
3 412.23(b)(2) of title 42, Code of Federal Regula-
4 tions, during the period beginning on July 1, 2005,
5 and ending on June 30, 2007, the Secretary of
6 Health and Human Services shall not—

7 (A) require a compliance rate, pursuant to
8 the criterion (commonly known as the “75 per-
9 cent rule”) that is used to determine whether a
10 hospital or unit of a hospital is an inpatient re-
11 habilitation facility (as defined in the rule pub-
12 lished in the Federal Register on May 7, 2004,
13 entitled “Medicare Program; Final Rule;
14 Changes to the Criteria for Being Classified as
15 an Inpatient Rehabilitation Facility” (69 Fed.
16 Reg. 25752)), that is greater than the 50 per-
17 cent compliance threshold that became effective
18 on July 1, 2004; or

19 (B) change the designation of an inpatient
20 rehabilitation facility that is in compliance with
21 such 50 percent threshold.

22 (2) RETROACTIVE STATUS AS AN INPATIENT
23 REHABILITATION FACILITY; PAYMENTS; EXPEDITED
24 REVIEW.—The Secretary of Health and Human
25 Services shall establish procedures for—

1 (A) making any necessary retroactive ad-
2 justment to restore the status of a facility as an
3 inpatient rehabilitation facility as a result of
4 subsection (a); and

5 (B) making any necessary payments to in-
6 patient rehabilitation facilities based on such
7 adjustment for discharges occurring on or after
8 July 1, 2005, and before the date of enactment
9 of this Act.

10 (b) SPECIAL RULE.—In the case of a hospital or unit
11 of a hospital that failed to meet the 50 percent compliance
12 threshold described in subsection (a)(1)(A) with respect
13 to the first cost reporting period of the hospital or unit
14 that began on or after July 1, 2004, the following rules
15 shall apply:

16 (1) Such hospital or unit shall be deemed to
17 meet such 50 percent threshold for purposes of sub-
18 section (a).

19 (2) The Secretary shall examine all the claims
20 of the hospital or unit under title XVIII of the So-
21 cial Security Act submitted during the 6-month pe-
22 riod beginning after the end of such first cost re-
23 porting period.

1 (3) If the Secretary determines after such re-
2 view that the hospital or unit is still not in compli-
3 ance with such 50 percent compliance threshold—

4 (A) the deemed status of the hospital or
5 unit under paragraph (1) shall be revoked ret-
6 roactive to the beginning of such 6-month pe-
7 riod; and

8 (B) the Secretary shall provide for the col-
9 lection of any necessary overpayments by rea-
10 son of the revocation under subparagraph (A).

11 (c) STUDY AND REPORT BY THE HHS INSPECTOR
12 GENERAL.—

13 (1) STUDY.—

14 (A) IN GENERAL.—The Inspector General
15 of the Department of Health and Human Serv-
16 ices shall conduct a study of hospitals and units
17 of hospitals that—

18 (i) are designated as inpatient reha-
19 bilitation facilities under title XVIII of the
20 Social Security Act; and

21 (ii) would not be so designated if this
22 section had not been enacted because the
23 hospital or unit has a compliance rate that
24 is greater than the 50 percent compliance
25 threshold described in subsection (a)(1)(A)

1 but is less than the 60 percent compliance
2 threshold that would have become effective
3 on July 1, 2005, but for this section.

4 (B) REQUIREMENT.—In conducting the
5 study under subparagraph (A), the Inspector
6 General shall analyze the types of patients the
7 hospitals and units are treating and issues re-
8 lating to the medical conditions of such patients
9 that do not meet the medical requirements for
10 determining compliance with such threshold.

11 (2) REPORT.—Not later than January 1, 2007,
12 the Inspector General shall submit to Congress and
13 the Secretary a report on the study conducted under
14 paragraph (1), together with such recommendations
15 as the Inspector General determines appropriate.

16 (d) REHABILITATION ADVISORY COUNCIL.—

17 (1) ESTABLISHMENT.—The Secretary shall es-
18 tablish an advisory council to be known as the “Re-
19 habilitation Advisory Council”.

20 (2) MEMBERSHIP.—The membership of the Re-
21 habilitation Advisory Council shall include—

22 (A) physicians;

23 (B) Medicare beneficiaries;

24 (C) representatives of inpatient rehabilita-
25 tion facilities; and

1 (D) representatives of other entities and
2 practitioners that provide rehabilitative care in
3 settings other than in such facilities, such as
4 skilled nursing facilities.

5 (3) DUTIES.—

6 (A) ADVICE AND RECOMMENDATIONS.—

7 The Rehabilitation Advisory Council shall pro-
8 vide advice and recommendations to Congress
9 and the Secretary concerning the coverage of
10 rehabilitation services under the Medicare pro-
11 gram, including the appropriate medical criteria
12 for determining the appropriateness of inpatient
13 rehabilitation facility admissions.

14 (B) PERIODIC REPORTS.—The Rehabilita-
15 tion Advisory Council shall provide Congress
16 and the Secretary with periodic reports that
17 summarize—

18 (i) the Council's activities; and

19 (ii) any recommendations for legisla-
20 tion or administrative action the Council
21 considers to be appropriate.

22 (4) TERMINATION.—The Rehabilitation
23 Advisory Council shall terminate on September
24 30, 2010.

1 **SEC. 6104. PROHIBITION ON PHYSICIAN SELF REFERRALS**
2 **TO PHYSICIAN OWNED, LIMITED SERVICE**
3 **HOSPITALS.**

4 (a) PROHIBITION.—Section 1877(d) (42 U.S.C.
5 1395m(d)) is amended in each of paragraphs (2)(B) and
6 (3)(B) by striking “effective for the 18-month period be-
7 ginning on the date of enactment of the Medicare Pre-
8 scription Drug, Improvement, and Modernization Act of
9 2003” and inserting “on and after December 8, 2003”.

10 (b) REVISIONS TO THE REQUIREMENTS TO QUALIFY
11 FOR THE EXCEPTION TO THE DEFINITION OF SPECIALTY
12 HOSPITAL.—Section 1877(h)(7)(B) (42 U.S.C.
13 1395m(h)(7)(B)) is amended—

14 (1) by redesignating clauses (iii), (iv), and (v)
15 as clauses (vi), (vii), and (viii), respectively;

16 (2) by inserting after clause (ii) the following
17 new clauses:

18 “(iii) for which the percent of invest-
19 ment in the hospital by physician investors
20 at any time on or after June 8, 2005, is
21 no greater than the percent of such invest-
22 ment by physician investors as of such
23 date;

24 “(iv) for which the percent of invest-
25 ment in the hospital by any physician in-
26 vestor at any time on or after June 8,

1 2005, is no greater than the percent of
2 such investment by such physician as of
3 such date;

4 “(v) for which the number of oper-
5 ating rooms at the hospital at any time on
6 or after June 8, 2005, is no greater than
7 the number of such rooms as of such
8 date;” and

9 (3) by striking clause (vii), as so redesignated,
10 and inserting the following:

11 “(vii) for which—

12 “(I) during the period beginning
13 on December 8, 2003, and ending on
14 June 7, 2005, any increase in the
15 number of beds occurs only in the fa-
16 cilities on the main campus of the
17 hospital and does not exceed 50 per-
18 cent of the number of beds in the hos-
19 pital as of November 18, 2003, or 5
20 beds, whichever is greater; and

21 “(II) the number of beds at the
22 hospital at any time on or after June
23 8, 2005, is no greater than the num-
24 ber of such beds as of such date;
25 and”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on June 8, 2005.

3 **SEC. 6105. MINIMUM UPDATE FOR PHYSICIANS' SERVICES**
4 **FOR 2006.**

5 (a) MINIMUM UPDATE FOR 2006.—Section 1848(d)
6 (42 U.S.C. 1395w-4(d)), as amended by section 6110(e),
7 is amended by adding at the end the following new para-
8 graph:

9 “(7) UPDATE FOR 2006.—The update to the
10 single conversion factor established in paragraph
11 (1)(C) for 2006 shall be not less than 1 percent.”.

12 (b) CONFORMING AMENDMENT.—Section
13 1848(d)(4)(B) (42 U.S.C. 1395w-4(d)(4)(B)) is amended,
14 in the matter preceding clause (i), by striking “paragraph
15 (5)” and inserting “paragraphs (5) and (7)”.

16 (c) NOT TREATED AS CHANGE IN LAW AND REGULA-
17 TION IN SUSTAINABLE GROWTH RATE DETERMINA-
18 TION.—The amendments made by this section shall not
19 be treated as a change in law for purposes of applying
20 section 1848(f)(2)(D) of the Social Security Act (42
21 U.S.C. 1395w-4(f)(2)(D)).

1 **SEC. 6106. ONE-YEAR EXTENSION OF HOLD HARMLESS PRO-**
 2 **VISIONS FOR SMALL RURAL HOSPITALS AND**
 3 **SOLE COMMUNITY HOSPITALS UNDER THE**
 4 **PROSPECTIVE PAYMENT SYSTEM FOR HOS-**
 5 **PITAL OUTPATIENT DEPARTMENT SERVICES.**

6 Section 1833(t)(7)(D)(i) (42 U.S.C.
 7 1395l(t)(7)(D)(i)) is amended by striking “January 1,
 8 2006” and inserting “January 1, 2007”.

9 **SEC. 6107. UPDATE TO THE COMPOSITE RATE COMPONENT**
 10 **OF THE BASIC CASE-MIX ADJUSTED PRO-**
 11 **SPECTIVE PAYMENT SYSTEM FOR DIALYSIS**
 12 **SERVICES.**

13 Section 1881(b)(12) (42 U.S.C. 1395rr(b)(12)) is
 14 amended—

15 (1) in subparagraph (F), in the flush matter at
 16 the end, by striking “Nothing” and inserting “Ex-
 17 cept as provided in subparagraph (G), nothing”;

18 (2) by redesignating subparagraph (G) as sub-
 19 paragraph (H); and

20 (3) by inserting after subparagraph (F) the fol-
 21 lowing new subparagraph:

22 “(G) The Secretary shall increase the amount of the
 23 composite rate component of the basic case-mix adjusted
 24 system under subparagraph (B) for dialysis services fur-
 25 nished on or after January 1, 2006, by 1.6 percent above

1 the amount of such composite rate component for such
 2 services furnished on December 31, 2005.”.

3 **SEC. 6108. ONE-YEAR EXTENSION OF MORATORIUM ON**
 4 **THERAPY CAPS.**

5 Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is
 6 amended by striking “and 2005” and inserting “2005,
 7 and 2006”.

8 **SEC. 6109. TRANSFER OF TITLE OF CERTAIN DME TO PA-**
 9 **TIENT AFTER 13-MONTH RENTAL.**

10 (a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C.
 11 1395m(a)(7)(A)) is amended to read as follows:

12 “(A) PAYMENT.—In the case of an item of
 13 durable medical equipment not described in
 14 paragraphs (2) through (6), the following rules
 15 shall apply:

16 “(i) RENTAL.—

17 “(I) IN GENERAL.—Payment for
 18 the item shall be made on a monthly
 19 basis for the rental of the item during
 20 the period of medical need (but pay-
 21 ments under this clause may not ex-
 22 tend over a period of continuous use
 23 (as determined by the Secretary) of
 24 longer than 13 months).

1 “(II) PAYMENT AMOUNT.—Sub-
2 ject to subparagraph (B), the amount
3 recognized for the item—

4 “(aa) for each of the first 3
5 months of such period is 10 per-
6 cent of the purchase price recog-
7 nized under paragraph (8) with
8 respect to the item; and

9 “(bb) for each of the re-
10 maining months of such period is
11 7.5 percent of such purchase
12 price.

13 “(ii) OWNERSHIP AFTER RENTAL.—

14 “(I) TRANSFER OF TITLE.—On
15 the first day that begins after the
16 13th continuous month during which
17 payment is made for the rental of an
18 item under clause (i), the supplier of
19 the item shall transfer title to the
20 item to the individual.

21 “(II) MAINTENANCE AND SERV-
22 ICING.—After the supplier transfers
23 title to the item under subclause (I),
24 maintenance and servicing payments
25 shall, if the Secretary determines such

1 payments are reasonable and nec-
 2 essary, be made (for parts and labor
 3 not covered by the supplier’s or manu-
 4 facturer’s warranty, as determined by
 5 the Secretary to be appropriate for
 6 the particular type of durable medical
 7 equipment), and such payments shall
 8 be in an amount determined to be ap-
 9 propriate by the Secretary.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
 11 subsection (a) shall apply to items furnished for which the
 12 first rental month occurs on or after January 1, 2006.

13 **SEC. 6110. ESTABLISHMENT OF MEDICARE VALUE-BASED**
 14 **PURCHASING PROGRAMS.**

15 (a) **IN GENERAL.**—Title XVIII (42 U.S.C. 1395 et
 16 seq.) is amended—

17 (1) by redesignating part E as part F; and

18 (2) by inserting after part D the following new
 19 part:

20 “PART E—VALUE-BASED PURCHASING

21 “QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED

22 PURCHASING PROGRAMS

23 “SEC. 1860E–1. (a) **ESTABLISHMENT.**—

24 “(1) **IN GENERAL.**—The Secretary shall develop
 25 quality measurement systems in accordance with

1 subsections (b), (c), (d), and (e), for purposes of
2 providing value-based payments to—

3 “(A) hospitals pursuant to section 1860E–
4 2;

5 “(B) physicians and practitioners pursuant
6 to section 1860E–3;

7 “(C) plans pursuant to section 1860E–4;

8 “(D) end stage renal disease providers and
9 facilities pursuant to section 1860E–5; and

10 “(E) home health agencies pursuant to
11 section 1860E–6.

12 “(2) QUALITY.—The systems developed under
13 paragraph (1) shall measure the quality of the care
14 furnished by the provider involved.

15 “(3) HIGH QUALITY HEALTH CARE DEFINED.—
16 In this part, the term ‘high quality health care’
17 means health care that is safe, effective, patient-cen-
18 tered, timely, equitable, efficient, necessary, and ap-
19 propriate.

20 “(b) REQUIREMENTS FOR SYSTEMS.—Under each
21 quality measurement system described in subsection
22 (a)(1), the Secretary shall do the following:

23 “(1) MEASURES.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the Secretary shall select measures

1 of quality to be used by the Secretary under
2 each system.

3 “(B) REQUIREMENTS.—In selecting the
4 measures to be used under each system pursu-
5 ant to subparagraph (A), the Secretary shall, to
6 the extent feasible and practicable, ensure
7 that—

8 “(i) such measures are evidence-
9 based, reliable and valid, actionable, and
10 reasonable to collect and report;

11 “(ii) measures of process, structure,
12 outcomes, and beneficiary experience of
13 care are included;

14 “(iii) except for the system that is
15 used to provide value-based payments to
16 physicians and practitioners under section
17 1860E–3, measures of efficiency (where ef-
18 ficiency is improved quality care through
19 the effective use of resources) are included;

20 “(iv) measures of overuse and
21 underuse of health care items and services
22 are included;

23 “(v)(I) at least 1 measure of health
24 information technology infrastructure that
25 enables the provision of high quality health

1 care and facilitates the exchange of health
2 information, such as the use of 1 or more
3 elements of a qualified health information
4 system (as defined in subparagraph (E)),
5 is included during the first year each sys-
6 tem is implemented; and

7 “(II) additional measures of health in-
8 formation technology infrastructure are in-
9 cluded in subsequent years;

10 “(vi) in the case of the system that is
11 used to provide value-based payments to
12 hospitals under section 1860E–2, by not
13 later than January 1, 2008, at least 5
14 measures that take into account the unique
15 characteristics of small hospitals located in
16 rural areas and frontier areas are included;
17 and

18 “(vii) measures that assess the quality
19 of care furnished to frail individuals over
20 the age of 75 and to individuals with mul-
21 tiple complex chronic conditions are in-
22 cluded.

23 “(C) REQUIREMENT FOR COLLECTION OF
24 DATA ON A MEASURE FOR 1 YEAR PRIOR TO
25 USE UNDER THE SYSTEMS.—Data on any

1 measure selected by the Secretary under sub-
2 paragraph (A) must be collected by the Sec-
3 retary for at least a 12-month period before
4 such measure may be used to determine wheth-
5 er a provider receives a value-based payment
6 under a program described in subsection (a)(1).

7 “(D) AUTHORITY TO VARY MEASURES.—

8 The Secretary may vary the measures selected
9 under subparagraph (A) by the entity or indi-
10 vidual involved based on factors such as the
11 type of, the size of, and the scope and volume
12 of services provided by, the entity or individual.
13 If the Secretary varies the measures for pro-
14 viders under the preceding sentence, the Sec-
15 retary shall ensure that such measures are
16 aligned to promote coordinated quality of care
17 across provider settings.

18 “(E) QUALIFIED HEALTH INFORMATION

19 SYSTEM DEFINED.—For purposes of subpara-
20 graph (B)(iv)(I), the term ‘qualified health in-
21 formation system’ means a computerized sys-
22 tem (including hardware, software, and train-
23 ing) that—

1 “(i) protects the privacy and security
2 of health information and properly
3 encrypts such health information;

4 “(ii) maintains and provides access to
5 patients’ health records in an electronic
6 format;

7 “(iii) incorporates decision support
8 software to reduce medical errors and en-
9 hance health care quality;

10 “(iv) is consistent with data standards
11 and certification processes recommended
12 by the Secretary;

13 “(v) allows for the reporting of quality
14 measures; and

15 “(vi) includes other features deter-
16 mined appropriate by the Secretary.

17 “(2) WEIGHTS OF MEASURES.—The Secretary
18 shall assign weights to the measures used by the
19 Secretary under each system. If the Secretary deter-
20 mines appropriate, in assigning the weights under
21 the preceding sentence, some measures may be
22 weighted more heavily than other measures.

23 “(3) RISK ADJUSTMENT.—The Secretary shall
24 establish procedures, as appropriate, to control for
25 differences in beneficiary health status and bene-

1 ficiary characteristics. To the extent feasible, such
2 procedures may be based on existing models for con-
3 trolling for such differences.

4 “(4) MAINTENANCE.—

5 “(A) IN GENERAL.—The Secretary shall,
6 as determined appropriate, but not more often
7 than once each 12-month period, review and re-
8 vise each system, including through—

9 “(i) the refinement of measures under
10 the systems and the retirement of existing
11 outdated measures under the system;

12 “(ii) the refinement of the weights as-
13 signed to measures under the system; and

14 “(iii) the refinement of the risk ad-
15 justment procedures established pursuant
16 to paragraph (3) under the system.

17 “(B) REVISION SHALL ALLOW FOR COM-
18 PARISON OF DATA.—Each revision under sub-
19 paragraph (A) of a quality measurement system
20 shall allow for the comparison of data from one
21 year to the next for purposes of providing
22 value-based payments under the programs de-
23 scribed in subsection (a)(1).

24 “(5) USE OF MOST RECENT QUALITY DATA.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Secretary shall use the
3 most recent quality data with respect to the
4 provider involved that is available to the Sec-
5 retary.

6 “(B) INSUFFICIENT DATA DUE TO LOW
7 VOLUME.—If the Secretary determines that
8 there is insufficient data with respect to a
9 measure or measures because of a low number
10 of services provided, the Secretary may aggre-
11 gate data across more than 1 fiscal or calendar
12 year, as the case may be.

13 “(c) REQUIREMENTS FOR DEVELOPING AND RE-
14 VIEWING AND REVISING THE SYSTEMS.—In developing
15 and reviewing and revising each quality measurement sys-
16 tem under this section, the Secretary shall—

17 “(1) consult with, and take into account the
18 recommendations of, the entity that the Secretary
19 has an arrangement with under subsection (e);

20 “(2) consult with provider-based groups, clinical
21 specialty societies, and certification boards;

22 “(3) take into account existing quality measure-
23 ment systems that have been developed through a
24 rigorous process of validation and with the involve-

1 ment of entities and persons described in subsection
2 (e)(2)(B); and

3 “(4) take into account—

4 “(A) each of the reports by the Medicare
5 Payment Advisory Commission that are re-
6 quired under section 1860E–3(a)(1);

7 “(B) the results of appropriate studies, re-
8 ports, and demonstration programs; and

9 “(C) the report by the Institute of Medi-
10 cine of the National Academy of Sciences under
11 section 238(b) of the Medicare Prescription
12 Drug, Improvement, and Modernization Act of
13 2003 (Public Law 108–173).

14 “(d) REQUIREMENTS FOR IMPLEMENTING THE SYS-
15 TEMS.—In implementing each quality measurement sys-
16 tem under this section, the Secretary shall consult with
17 entities—

18 “(1) that have joined together to develop strate-
19 gies for quality measurement and reporting, includ-
20 ing the feasibility of collecting and reporting mean-
21 ingful data on quality measures; and

22 “(2) that involve representatives of health care
23 providers, health plans, consumers, employers, pur-
24 chasers, quality experts, government agencies, and

1 other individuals and groups that are interested in
2 quality of care.

3 “(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE
4 ADVICE AND RECOMMENDATIONS.—

5 “(1) ARRANGEMENT.—On and after July 1,
6 2006, the Secretary shall have in place an arrange-
7 ment with an entity that meets the requirements de-
8 scribed in paragraph (2) under which such entity
9 provides the Secretary with advice on, and rec-
10 ommendations with respect to, the development and
11 review and revision of the quality measurement sys-
12 tems under this section, including the assigning of
13 weights to the measures under subsection (b)(2).

14 “(2) REQUIREMENTS DESCRIBED.—The re-
15 quirements described in this paragraph are the fol-
16 lowing:

17 “(A) The entity is a private nonprofit enti-
18 ty governed by an executive director and a
19 board.

20 “(B) The members of the entity include
21 representatives of—

22 “(i)(I) health plans and providers re-
23 ceiving reimbursement under this title for
24 the provision of items and services, includ-
25 ing health plans and providers with experi-

1 ence in the care of the frail elderly and in-
2 dividuals with multiple complex chronic
3 conditions; or

4 “**(II)** groups representing such health
5 plans and providers;

6 “**(ii)** groups representing individuals
7 receiving benefits under this title;

8 “**(iii)** purchasers and employers or
9 groups representing purchasers or employ-
10 ers;

11 “**(iv)** organizations that focus on qual-
12 ity improvement as well as the measure-
13 ment and reporting of quality measures;

14 “**(v)** organizations that certify and li-
15 cense such providers;

16 “**(vi)** State government health pro-
17 grams;

18 “**(vii)** persons skilled in the conduct
19 and interpretation of biomedical, health
20 services, and health economics research
21 and with expertise in outcomes and effec-
22 tiveness research and technology assess-
23 ment; and

24 “**(viii)** persons or entities involved in
25 the development and establishment of

1 standards and certification for health in-
2 formation technology systems and clinical
3 data.

4 “(C) The membership of the entity is rep-
5 resentative of individuals with experience
6 with—

7 “(i) urban health care issues;

8 “(ii) safety net health care issues; and

9 “(iii) rural and frontier health care
10 issues.

11 “(D) The entity does not charge a fee for
12 membership for participation in the work of the
13 entity related to the arrangement with the Sec-
14 retary under paragraph (1). If the entity does
15 require a fee for membership for participation
16 in other functions of the entity, there shall be
17 no linkage between such fee and participation
18 in the work of the entity related to such ar-
19 rangement with the Secretary.

20 “(E) The entity—

21 “(i) permits members described in
22 subparagraph (B) to vote on matters of
23 the entity related to the arrangement with
24 the Secretary under paragraph (1); and

1 “(ii) ensures that such members have
2 an equal vote on such matters.

3 “(F) With respect to matters related to the
4 arrangement with the Secretary under para-
5 graph (1), the entity conducts its business in an
6 open and transparent manner and provides the
7 opportunity for public comment.

8 “(G) The entity operates as a voluntary
9 consensus standards setting organization as de-
10 fined for purposes of section 12(d) of the Na-
11 tional Technology Transfer and Advancement
12 Act of 1995 (Public Law 104–113) and Office
13 of Management and Budget Revised Circular
14 A–119 (published in the Federal Register on
15 February 10, 1998).

16 “(3) AUTHORIZATION OF APPROPRIATIONS.—
17 For the purpose of carrying out the provisions of
18 this subsection, there are authorized to be
19 appropriated—

20 “(A) for each of the fiscal years 2006 and
21 2007, \$3,000,000; and

22 “(B) for fiscal year 2008 and each subse-
23 quent fiscal year, an amount equal to the sum
24 of—

25 “(i) \$3,000,000; and

1 “(ii) such amount multiplied by the
2 percentage (if any) by which the average of
3 the Consumer Price Index for all urban
4 consumers (United States city average) for
5 the 12-month period ending with June of
6 the calendar year in which such fiscal year
7 begins exceeds such average for the 12-
8 month period ending with June 2006.

9 “PPS HOSPITAL VALUE-BASED PURCHASING PROGRAM

10 “SEC. 1860E-2. (a) PROGRAM.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish a program under which value-based payments
13 are provided each fiscal year to hospitals that dem-
14 onstrate the provision of high quality health care to
15 individuals who are entitled to benefits under part A
16 and are inpatients of the hospital.

17 “(2) PROGRAM TO BEGIN IN FISCAL YEAR
18 2007.—The Secretary shall establish the program
19 under this section so that value-based payments de-
20 scribed in subsection (b) are made with respect to
21 fiscal year 2007 and each subsequent fiscal year.

22 “(3) APPLICABILITY OF PROGRAM TO HOS-
23 PITALS.—For purposes of this section, the term
24 ‘hospital’ means a subsection (d) hospital (as defined
25 in section 1886(d)(1)(B)).

26 “(b) VALUE-BASED PAYMENTS.—

1 “(1) IN GENERAL.—Subject to paragraph (4),
2 the Secretary shall make a value-based payment to
3 a hospital with respect to a fiscal year if the Sec-
4 retary determines that the quality of the care pro-
5 vided in that year to individuals who are entitled to
6 benefits under part A and are inpatients of the
7 hospital—

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 hospitals qualify for a value-based payment under
14 paragraph (1), the Secretary shall use the quality
15 measurement system developed for this section pur-
16 suant 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 hospital; 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 fiscal year between pay-
3 ments with respect to hospitals that meet
4 the requirement under subparagraph (A)
5 of paragraph (1) and hospitals that meet
6 the requirement under subparagraph (B)
7 of such paragraph.

8 “(B) REQUIREMENTS REGARDING THE
9 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
10 BASED PAYMENTS FOR HOSPITALS EXCEEDING
11 A 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 fiscal year is pro-
16 vided to hospitals that are receiving such
17 payments because they meet the require-
18 ment under paragraph (1)(B); and

19 “(ii) with respect to fiscal year 2008
20 and each subsequent fiscal year, the per-
21 centage of the total amount available
22 under subsection (d) for value-based pay-
23 ments for any fiscal year that is used to
24 make payments to hospitals that meet such

1 requirement is greater than such percent-
2 age in the previous fiscal year.

3 “(4) REQUIREMENTS.—

4 “(A) REQUIRED SUBMISSION OF DATA.—

5 In order for a hospital to be eligible for a value-
6 based payment for a fiscal year, the hospital
7 must have complied with the requirements
8 under section 1886(b)(3)(B)(viii)(II) with re-
9 spect to that fiscal year.

10 “(B) ATTESTATION REGARDING DATA.—In

11 order for a hospital to be eligible for a value-
12 based payment for a fiscal year, the hospital
13 must have provided the Secretary (under proce-
14 dures established by the Secretary) with an at-
15 testation that the data submitted under section
16 1886(b)(3)(B)(viii)(II) for the fiscal year is
17 complete and accurate.

18 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-

19 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE

20 FUNDING.—The Secretary shall establish payment

21 amounts under paragraph (3)(A) so that, as esti-

22 mated by the Secretary, the total amount of value-

23 based payments made in a fiscal year under para-

24 graph (1) is equal to the total amount available

25 under subsection (d) for such payments for the year.

1 “(6) PAYMENT METHODS AND TIMING OF PAY-
2 MENTS.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), the payment of value-based pay-
5 ments under paragraph (1) shall be based on
6 such a method as the Secretary determines ap-
7 propriate.

8 “(B) TIMING.—The Secretary shall ensure
9 that value-based payments under paragraph (1)
10 with respect to a fiscal year are made by not
11 later than the close of the following fiscal year.

12 “(c) DESCRIPTION OF HOW HOSPITALS WOULD
13 HAVE FARED UNDER PROGRAM.—Not later than Janu-
14 ary 1, 2007, the Secretary shall provide each hospital with
15 a description of the Secretary’s estimate of how payments
16 to the hospital under this title would have been affected
17 with respect to items and services furnished during a pe-
18 riod, as determined by the Secretary, if the program under
19 this section (and the amendments made by paragraphs (1)
20 and (2) of section 6110(b) of the Deficit Reduction Omni-
21 bus Reconciliation Act of 2005) had been in effect with
22 respect to that period.

23 “(d) FUNDING.—

24 “(1) AMOUNT.—The amount available for
25 value-based payments under this section with respect

1 to a fiscal year shall be equal to the amount of the
2 reduction in expenditures under the Federal Hos-
3 pital Insurance Trust Fund under section 1817 in
4 the year as a result of the amendments made by sec-
5 tion 6110(b)(2) of the Deficit Reduction Omnibus
6 Reconciliation Act of 2005, as estimated by the Sec-
7 retary.

8 “(2) PAYMENTS FROM TRUST FUND.—Pay-
9 ments to hospitals under this section shall be made
10 from the Federal Hospital Insurance Trust Fund.

11 “PHYSICIAN AND PRACTITIONER VALUE-BASED
12 PURCHASING PROGRAM

13 “SEC. 1860E-3. (a) PROGRAM.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish a program under which value-based payments
16 are provided each year to physicians and practi-
17 tioners that demonstrate the provision of high qual-
18 ity health care to individuals enrolled under part B
19 and the Medicare Payment Advisory Commission
20 shall (A) conduct a study, and submit to Congress
21 and the Secretary an initial report by not later than
22 March 1, 2008, and a final report by not later than
23 June 1, 2012, on how the Medicare value-based pur-
24 chasing programs under this part will impact Medi-
25 care beneficiaries, Medicare providers, and Medicare
26 financing, including how such programs will impact

1 the access of such beneficiaries to items and services
2 under this title, the volume and utilization of such
3 items and services, and low-volume providers; and
4 (B) conduct a study, and submit to Congress and
5 the Secretary a report by not later than March 1,
6 2007, on the advisability and feasibility of estab-
7 lishing a value-based purchasing program under the
8 this title for critical access hospitals (as defined in
9 section 1861(mm)(1)); and (C) conduct a study, and
10 submit to Congress and the Secretary a report by
11 not later than June 1, 2007, on the advisability and
12 feasibility of including renal dialysis facilities de-
13 scribed in subsection (a)(3)(A) of section 1860E-5
14 in the value-based purchasing program under such
15 section 1860E-5 or establishing a value-based pur-
16 chasing program under this title for such facilities;
17 (D) taking into account the results to date of the
18 demonstration of bundled case-mix adjusted pay-
19 ment system for ESRD services under section
20 623(e) of the Medicare Prescription Drug, Improve-
21 ment, and Modernization Act of 2003, conduct a
22 study, and submit to Congress and the Secretary a
23 report by not later than June 1, 2008, on the imple-
24 mentation of the ESRD provider and facility value-
25 based purchasing program under section 1860E-5,

1 including issues for the Secretary to consider in op-
2 erating the ESRD provider and facility value-based
3 purchasing program and recommendations on such
4 issues; and (E) conduct a study, and submit to Con-
5 gress and the Secretary a report by not later than
6 June 1, 2007, on the advisability and feasibility of
7 establishing a value-based purchasing program
8 under this title for skilled nursing facilities (as de-
9 fined in section 1819(a)).

10 “(2) PROGRAM TO BEGIN IN 2009.—The Sec-
11 retary shall establish the program under this section
12 so that value-based payments described in subsection
13 (b) are made with respect to 2009 and each subse-
14 quent year.

15 “(3) DEFINITION OF PHYSICIAN AND PRACTI-
16 TIONER.—In this section:

17 “(A) PHYSICIAN.—The term ‘physician’
18 has the meaning given that term in section
19 1861(r).

20 “(B) PRACTITIONER.—The term ‘practi-
21 tioner’ means—

22 “(i) a practitioner described in section
23 1842(b)(18)(C);

24 “(ii) a physical therapist (as described
25 in section 1861(p));

1 “(iii) an occupational therapist (as so
2 described); and

3 “(iv) a qualified speech-language pa-
4 thologist (as defined in section
5 1861(l)(3)(A)).

6 “(4) IDENTIFICATION OF PHYSICIANS AND
7 PRACTITIONERS.—For purposes of applying this sec-
8 tion and paragraphs (4)(G) and (6) of section
9 1848(d), the Secretary shall establish procedures for
10 the identification of physicians and practitioners,
11 such as through physician or practitioner billing
12 units or other units, provider identification numbers,
13 taxpayer identification numbers, the National Pro-
14 vider Identifier, and unique physician identifier
15 numbers.

16 “(b) VALUE-BASED PAYMENTS.—

17 “(1) IN GENERAL.—Subject to paragraph (4),
18 the Secretary shall make a value-based payment to
19 a physician or a practitioner with respect to a year
20 if the Secretary determines that both the quality of
21 the care and the efficiency of the care provided in
22 that year by the physician or practitioner to individ-
23 uals enrolled under part B—

24 “(A) has substantially improved (as deter-
25 mined by the Secretary) over the prior year; or

1 “(B) exceeds a threshold established by the
2 Secretary.

3 “(2) USE OF SYSTEMS AND DATA.—

4 “(A) IN GENERAL.—In determining which
5 physicians and practitioners qualify for a value-
6 based payment under paragraph (1), the Sec-
7 retary shall use—

8 “(i) the quality measurement system
9 developed for this section pursuant to sec-
10 tion 1860E–1(a) with respect to the qual-
11 ity of the care provided by the physician or
12 practitioner; and

13 “(ii) the comparative utilization sys-
14 tem developed under subsection (c) with
15 respect to the efficiency and appropriate-
16 ness of such care.

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 physician or a practitioner; and

24 “(ii) subject to subparagraph (B), the
25 allocation of the total amount available

1 under subsection (e) for value-based pay-
2 ments for any year between payments with
3 respect to physicians and practitioners that
4 meet the requirement under subparagraph
5 (A) of paragraph (1) and physicians and
6 practitioners that meet the requirement
7 under subparagraph (B) of such para-
8 graph.

9 “(B) REQUIREMENTS REGARDING THE
10 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
11 BASED PAYMENTS FOR PHYSICIANS AND PRAC-
12 TITIONERS EXCEEDING A THRESHOLD.—The
13 Secretary shall ensure that—

14 “(i) a majority of the total amount
15 available under subsection (e) for value-
16 based payments for any year is provided to
17 physicians and practitioners that are re-
18 ceiving such payments because they meet
19 the requirement under paragraph (1)(B);
20 and

21 “(ii) with respect to 2010 and each
22 subsequent year, the percentage of the
23 total amount available under subsection (e)
24 for value-based payments for any year that
25 is used to make payments to physicians

1 and practitioners that meet such require-
2 ment is greater than such percentage in
3 the previous year.

4 “(4) REQUIREMENTS.—

5 “(A) REQUIRED SUBMISSION OF DATA.—

6 In order for a physician or a practitioner to be
7 eligible for a value-based payment for a year,
8 the physician or practitioner must have com-
9 plied with the requirements under section
10 1848(d)(6)(B)(ii) with respect to that year.

11 “(B) ATTESTATION REGARDING DATA.—In

12 order for a physician or a practitioner to be eli-
13 gible for a value-based payment for a year, the
14 physician or practitioner must have provided
15 the Secretary (under procedures established by
16 the Secretary) with an attestation that the data
17 submitted under section 1848(d)(6)(B)(ii) with
18 respect to that year is complete and accurate.

19 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-

20 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE

21 FUNDING.—The Secretary shall establish payment

22 amounts under paragraph (3)(A) so that, as esti-

23 mated by the Secretary, the total amount of value-

24 based payments made in a year under paragraph (1)

1 is equal to the total amount available under sub-
2 section (e) for such payments for the year.

3 “(6) PAYMENT METHODS AND TIMING OF PAY-
4 MENTS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the payment of value-based pay-
7 ments under paragraph (1) shall be based on
8 such a method as the Secretary determines ap-
9 propriate.

10 “(B) TIMING.—The Secretary shall ensure
11 that value-based payments under paragraph (1)
12 with respect to a year are made by not later
13 than December 31 of the subsequent year.

14 “(c) COMPARATIVE UTILIZATION SYSTEM.—

15 “(1) DEVELOPMENT.—The Secretary, in con-
16 sultation with relevant stakeholders, shall develop a
17 comparative utilization system for purposes of pro-
18 viding value-based payments under subsection (b).

19 “(2) MEASURES OF EFFICIENCY AND APPRO-
20 PRIATENESS OF CARE.—The comparative utilization
21 system developed under paragraph (1) shall measure
22 the efficiency and appropriateness of the care pro-
23 vided by a physician or practitioner.

1 “(3) REQUIREMENTS FOR SYSTEM.—Under the
2 comparative utilization system described in para-
3 graph (1), the Secretary shall do the following:

4 “(A) MEASURES.—The Secretary shall se-
5 lect measures of efficiency appropriateness to
6 be used by the Secretary under the system. The
7 Secretary may vary the measures selected under
8 the preceding sentence by the type or specialty
9 of the physician or practitioner. If the Secretary
10 varies the measures for providers under the pre-
11 ceding sentence, the Secretary shall ensure that
12 such measures are aligned to promote coordi-
13 nated quality of care across provider settings.

14 “(B) USE OF CLAIMS DATA FOR UTILIZA-
15 TION PATTERNS.—

16 “(i) REVIEW OF CLAIMS DATA.—The
17 Secretary shall review claims data with re-
18 spect to services furnished or ordered by
19 physicians and practitioners.

20 “(ii) USE OF MOST RECENT CLAIMS
21 DATA.—The Secretary shall use the most
22 recent claims data with respect to the phy-
23 sician or practitioner that is available to
24 the Secretary.

1 “(C) RISK ADJUSTMENT.—The Secretary
2 shall establish procedures, as appropriate, to
3 control for differences in beneficiary health sta-
4 tus and beneficiary characteristics.

5 “(4) ANNUAL REPORTS.—Beginning in 2007,
6 the Secretary shall provide physicians and practi-
7 tioners with annual reports on the utilization of
8 items and services under this title based upon the
9 review of claims data under paragraph (3)(B). With
10 respect to reports provided in 2007 and 2008, such
11 reports are confidential and the Secretary shall not
12 make such reports available to the public.

13 “(d) DESCRIPTION OF HOW PHYSICIANS AND PRAC-
14 TITIONERS WOULD HAVE FARED UNDER PROGRAM.—
15 Not later than March 1, 2009, the Secretary shall provide
16 each physician and practitioner with a description of the
17 Secretary’s estimate of how payments to the physician or
18 practitioner under this title would have been affected with
19 respect to items and services furnished during a period,
20 as determined by the Secretary, if the program under this
21 section (and the amendments made by paragraphs (1) and
22 (2) of section 6110(c) of the Deficit Reduction Omnibus
23 Reconciliation Act of 2005) had been in effect with respect
24 to that period.

25 “(e) FUNDING.—

1 “(1) AMOUNT.—The amount available for
2 value-based payments under this section with respect
3 to a year shall be equal to the amount of the reduc-
4 tion in expenditures under the Federal Supple-
5 mentary Medical Insurance Trust Fund under sec-
6 tion 1841 in the year as a result of the amendments
7 made by section 6110(c)(2) of the Deficit Reduction
8 Omnibus Reconciliation Act of 2005, as estimated
9 by the Secretary.

10 “(2) PAYMENTS FROM TRUST FUND.—Pay-
11 ments to physicians and practitioners under this sec-
12 tion shall be made from the Federal Supplementary
13 Medical Insurance Trust Fund.

14 “PLAN VALUE-BASED PURCHASING PROGRAM

15 “SEC. 1860E–4. (a) PROGRAM.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish a program under which value-based payments
18 are provided each year to Medicare Advantage orga-
19 nizations offering Medicare Advantage plans under
20 part C that demonstrate the provision of high qual-
21 ity health care to enrollees under the plan.

22 “(2) PROGRAM TO BEGIN IN 2009.—The Sec-
23 retary shall establish the program under this section
24 so that value-based payments under subsection (b)
25 are made with respect to 2009 and each subsequent
26 year.

1 “(3) DEFINITIONS OF MEDICARE ADVANTAGE
2 ORGANIZATION AND PLAN.—

3 “(A) IN GENERAL.—In this section:

4 “(i) MEDICARE ADVANTAGE ORGANI-
5 ZATION.—The term ‘Medicare Advantage
6 organization’ has the meaning given such
7 term in section 1859(a)(1).

8 “(ii) MEDICARE ADVANTAGE PLAN.—
9 The term ‘Medicare Advantage plan’ has
10 the meaning given such term in section
11 1859(b)(1).

12 “(B) APPLICABILITY OF PROGRAM TO
13 MEDICARE ADVANTAGE REGIONAL AND LOCAL
14 PLANS.—For purposes of this section, the term
15 ‘Medicare Advantage plan’ shall include both
16 Medicare Advantage regional plans (as defined
17 in section 1859(b)(4)) and Medicare Advantage
18 local plans (as defined in section 1859(b)(5)).

19 “(C) APPLICABILITY OF PROGRAM TO REA-
20 SONABLE COST CONTRACTS.—Except for para-
21 graphs (5) and (6) of subsection (b), for pur-
22 poses of this section, the terms—

23 “(i) ‘Medicare Advantage organiza-
24 tion’ and ‘organization’ include an organi-
25 zation that is providing benefits under a

1 reasonable cost reimbursement contract
2 under section 1876(h); and

3 “(ii) ‘Medicare Advantage plan’ and
4 ‘plan’ include such a contract.

5 “(b) VALUE-BASED PAYMENTS.—

6 “(1) IN GENERAL.—Subject to paragraph (4),
7 the Secretary shall make value-based payments to
8 Medicare Advantage organizations with respect to
9 each Medicare Advantage plan offered by the organi-
10 zation during a year if the Secretary determines that
11 the quality of the care provided under the plan—

12 “(A) has substantially improved (as deter-
13 mined by the Secretary) over the prior year; or

14 “(B) exceeds a threshold established by the
15 Secretary.

16 “(2) USE OF SYSTEM.—In determining which
17 organizations offering Medicare Advantage plans
18 qualify for a value-based payment under paragraph
19 (1), the Secretary shall—

20 “(A) use the quality measurement system
21 developed for this section pursuant to section
22 1860E–1(a); and

23 “(B) ensure that awards are based on data
24 from a full 12-month period (or 24-month pe-
25 riod in the case of an award described in para-

1 graph (1)(A)), such periods determined without
2 regard to calendar year periods.

3 “(3) DETERMINATION OF AMOUNT OF AWARD
4 AND ALLOCATION OF AWARDS.—

5 “(A) IN GENERAL.—The Secretary shall
6 determine—

7 “(i) the amount of a value-based pay-
8 ment under paragraph (1) provided to an
9 organization with respect to a plan; and

10 “(ii) subject to subparagraph (B), the
11 allocation of the total amount available
12 under subsection (d) for value-based pay-
13 ments for any year between payments with
14 respect to plans that meet the requirement
15 under subparagraph (A) of paragraph (1)
16 and plans that meet the requirement under
17 subparagraph (B) of such paragraph.

18 “(B) REQUIREMENT REGARDING THE
19 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
20 BASED PAYMENTS FOR PLANS EXCEEDING A
21 THRESHOLD.—The Secretary shall ensure
22 that—

23 “(i) a majority of the total amount
24 available under subsection (d) for value-
25 based payments for any year is provided to

1 organizations, with respect to plans offered
2 by such organizations, that are receiving
3 such payments because they meet the re-
4 quirement under paragraph (1)(B); and

5 “(ii) with respect to 2010 and each
6 subsequent year, the percentage of the
7 total amount available under subsection (d)
8 for value-based payments for any year that
9 is used to make payments to organizations,
10 with respect to plans offered by such orga-
11 nizations, that meet such requirement is
12 greater than such percentage in the pre-
13 vious year.

14 “(4) USE OF PAYMENTS.—Value-based pay-
15 ments received under this section may only be used
16 for the following purposes:

17 “(A) To invest in quality improvement pro-
18 grams operated by the organization with respect
19 to the plan.

20 “(B) To enhance beneficiary benefits under
21 the plan.

22 “(5) REQUIRED SUBMISSION OF DATA.—In
23 order for an organization to be eligible for a value-
24 based payment for a year with respect to a Medicare
25 Advantage plan or a reasonable cost contract, the

1 organization must have provided for the collection,
2 analysis, and reporting of data pursuant to sections
3 1852(e)(3) (or submitted the data under section
4 1876(h)(6) in the case of a reasonable cost contract)
5 with respect to the plan or contract for the 2 years
6 preceding that year.

7 “(6) NO EFFECT ON MEDICARE ADVANTAGE
8 PLAN BIDS.—In order for a Medicare Advantage or-
9 ganization to be eligible for a value-based payment
10 for a year with respect to a Medicare Advantage
11 plan, the organization must have provided the Sec-
12 retary with an attestation that the program under
13 this section, including the payment adjustments
14 made by reason of the amendments made by section
15 6110(d)(2)(A) of the Deficit Reduction Omnibus
16 Reconciliation Act of 2005, had no effect on the in-
17 tegrity and actuarial soundness of the bid submitted
18 under section 1854 for the plan for the year.

19 “(7) TOTAL AMOUNT OF VALUE-BASED PAY-
20 MENTS EQUAL TO TOTAL AMOUNT OF REDUCTION IN
21 PAYMENTS.—The Secretary shall establish payment
22 amounts under paragraph (3)(A) so that, as esti-
23 mated by the Secretary, the total amount of value-
24 based payments made in a year under paragraph (1)

1 is equal to the total amount available under sub-
2 section (d) for such payments for the year.

3 “(8) PAYMENT METHODS AND TIMING OF PAY-
4 MENTS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the payment of value-based pay-
7 ments under paragraph (1) shall be based on
8 such a method as the Secretary determines ap-
9 propriate.

10 “(B) TIMING.—The Secretary shall ensure
11 that value-based payments under paragraph (1)
12 with respect to a year are made by not later
13 than March 1 of the subsequent year.

14 “(c) DESCRIPTION OF HOW PLANS WOULD HAVE
15 FARED UNDER PROGRAM—Not later than March 1, 2009,
16 the Secretary shall provide each Medicare Advantage orga-
17 nization offering a Medicare Advantage plan with a de-
18 scription of the Secretary’s estimate of how payments
19 under this title to such organization with respect to the
20 plan for a period, as determined by the Secretary, would
21 have been affected if the program under this section (and
22 the amendments made by section 6110(d) of the Deficit
23 Reduction Omnibus Reconciliation Act of 2005) had been
24 in effect with respect to that period.

25 “(d) FUNDING.—

1 “(1) AMOUNT.—The amount available for
2 value-based payments under this section with respect
3 to a year shall be equal to the amount of the reduc-
4 tion in expenditures under the Federal Hospital In-
5 surance Trust Fund under section 1817 and the
6 Federal Supplementary Medical Insurance Trust
7 Fund under section 1841 in the year as a result of
8 the amendments made by section 6110(d)(2) of the
9 Deficit Reduction Omnibus Reconciliation Act of
10 2005, as estimated by the Secretary.

11 “(2) PAYMENTS FROM TRUST FUNDS.—Pay-
12 ments to organizations under this section shall be
13 made from the Federal Hospital Insurance Trust
14 Fund and the Federal Supplementary Medical In-
15 surance Trust Fund in the same proportion as pay-
16 ments to Medicare Advantage organizations are
17 made from such Trust Funds under the first sen-
18 tence of section 1853(f).

19 “ESRD PROVIDER AND FACILITY VALUE-BASED
20 PURCHASING PROGRAM

21 “SEC. 1860E–5. (a) PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall estab-
23 lish a program under which value-based payments
24 are provided each year to providers of services and
25 renal dialysis facilities that—

1 “(A) provide items and services to individ-
2 uals with end stage renal disease who are en-
3 rolled under part B; and

4 “(B) demonstrate the provision of high
5 quality health care to such individuals.

6 “(2) PROGRAM TO BEGIN IN 2007.—The Sec-
7 retary shall establish the program under this section
8 so that value-based payments described in subsection
9 (b) are made with respect to 2007 and each subse-
10 quent year.

11 “(3) EXCLUSIONS FROM PROGRAM.—

12 “(A) PEDIATRIC FACILITIES.—Any renal
13 dialysis facility at least 50 percent of whose pa-
14 tients are individuals under 18 years of age
15 shall not be included in the program under this
16 section.

17 “(B) PROVIDERS AND FACILITIES CUR-
18 RENTLY PARTICIPATING IN BUNDLED CASE-MIX
19 DEMONSTRATION NOT INCLUDED IN PRO-
20 GRAM.—Any provider of services or renal dialy-
21 sis facility that is currently participating in the
22 bundled case-mix adjusted payment system for
23 ESRD services demonstration project under
24 section 623(e) of the Medicare Prescription
25 Drug, Improvement, and Modernization Act of

1 2003 (Public Law 108–173) shall not be in-
2 cluded in the program under this section, but
3 only for so long as the provider or facility is so
4 participating.

5 “(b) VALUE-BASED PAYMENTS.—

6 “(1) IN GENERAL.—Subject to paragraph (4),
7 the Secretary shall make a value-based payment to
8 a provider of services or a renal dialysis facility with
9 respect to a year if the Secretary determines that
10 the quality of the care provided in that year by the
11 provider or facility to individuals with end stage
12 renal disease who are enrolled under part B—

13 “(A) has substantially improved (as deter-
14 mined by the Secretary) over the prior year; or

15 “(B) exceeds a threshold established by the
16 Secretary.

17 “(2) USE OF SYSTEM.—In determining which
18 providers of services and renal dialysis facilities
19 qualify for a value-based payment under paragraph
20 (1), the Secretary shall use the quality measurement
21 system developed for this section pursuant to section
22 1860E–1(a).

23 “(3) DETERMINATION OF AMOUNT OF AWARD
24 AND ALLOCATION OF AWARDS.—

1 “(A) IN GENERAL.—The Secretary shall
2 determine—

3 “(i) the amount of a value-based pay-
4 ment under paragraph (1) provided to a
5 provider of services or a renal dialysis fa-
6 cility; and

7 “(ii) subject to subparagraphs (B)
8 and (C), the allocation of the total amount
9 available under subsection (c) for value-
10 based payments for any year between pay-
11 ments with respect to providers and facili-
12 ties that meet the requirement under sub-
13 paragraph (A) of paragraph (1) and pro-
14 viders and facilities that meet the require-
15 ment under subparagraph (B) of such
16 paragraph.

17 “(B) REQUIREMENT REGARDING AMOUNT
18 OF FUNDING AVAILABLE FOR VALUE-BASED
19 PAYMENTS FOR PROVIDERS AND FACILITIES
20 EXCEEDING A THRESHOLD.—The Secretary
21 shall ensure that—

22 “(i) a majority of the total amount
23 available under subsection (c) for value-
24 based payments for any year is provided to
25 providers of services and renal dialysis fa-

1 cilities that are receiving such payments
2 because they meet the requirement under
3 paragraph (1)(B); and

4 “(ii) with respect to 2009 and each
5 subsequent year, the percentage of the
6 total amount available under subsection (c)
7 for value-based payments for any year that
8 is used to make payments to providers and
9 facilities that meet such requirement is
10 greater than such percentage in the pre-
11 vious year.

12 “(C) ONLY VALUE-BASED PAYMENTS FOR
13 PROVIDERS AND FACILITIES EXCEEDING A
14 THRESHOLD IN 2007.—With respect to 2007,
15 the entire amount available under subsection (c)
16 for value-based payments for that year shall be
17 used to make payments to providers of services
18 and renal dialysis facilities that meet the re-
19 quirement under paragraph (1)(B).

20 “(4) REQUIREMENTS.—

21 “(A) REQUIRED SUBMISSION OF DATA.—

22 “(i) IN GENERAL.—In order for a pro-
23 vider of services or a renal dialysis facility
24 to be eligible for a value-based payment for
25 a year, the provider or facility must have

1 provided for the submission of data in ac-
2 cordance with clause (ii) with respect to
3 that year.

4 “(ii) SUBMISSION OF DATA.—For
5 2007 and each subsequent year, each pro-
6 vider of services and renal dialysis facility
7 that receives payments under paragraph
8 (12) shall submit to the Secretary such
9 data that the Secretary determines is ap-
10 propriate for the measurement of health
11 outcomes and other indices of quality, in-
12 cluding data necessary for the operation of
13 the program under this section. Such data
14 shall be submitted in a form and manner,
15 and at a time, specified by the Secretary
16 for purposes of this clause.

17 “(iii) AVAILABILITY TO THE PUB-
18 LIC.—The Secretary shall establish proce-
19 dures for making data submitted under
20 clause (ii) available to the public in a clear
21 and understandable form. Such procedures
22 shall ensure that a provider or facility has
23 the opportunity to review the data that is
24 to be made public with respect to the pro-

1 vider or facility prior to such data being
2 made public.

3 “(B) ATTESTATION REGARDING DATA.—In
4 order for a provider of services or a renal dialy-
5 sis facility to be eligible for a value-based pay-
6 ment for a year, the provider or facility must
7 have provided the Secretary (under procedures
8 established by the Secretary) with an attesta-
9 tion that the data submitted under subpara-
10 graph (A)(ii) for the year is complete and accu-
11 rate.

12 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-
13 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE
14 FUNDING.—The Secretary shall establish payment
15 amounts under paragraph (3)(A) so that, as esti-
16 mated by the Secretary, the total amount of value-
17 based payments made in a year under paragraph (1)
18 is equal to the total amount available under sub-
19 section (c) for such payments for the year.

20 “(6) PAYMENT METHODS AND TIMING OF PAY-
21 MENTS.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B), the payment of value-based pay-
24 ments under paragraph (1) shall be based on

1 demonstrate the provision of high quality health care
2 to individuals entitled to benefits under part A or
3 enrolled under part B.

4 “(2) PROGRAM TO BEGIN IN 2008.—The Sec-
5 retary shall establish the program under this section
6 so that value-based payments described in subsection
7 (b) are made with respect to 2008 and each subse-
8 quent year.

9 “(3) HOME HEALTH AGENCY DEFINED.—In
10 this section, the term “home health agency” has the
11 meaning given that term in section 1861(o).

12 “(b) VALUE-BASED PAYMENTS.—

13 “(1) IN GENERAL.—Subject to paragraph (4),
14 the Secretary shall make a value-based payment to
15 a home health agency with respect to a year if the
16 Secretary determines that the quality of the care
17 provided in that year by the agency to individuals
18 entitled to benefits under part A or enrolled under
19 part B—

20 “(A) has substantially improved (as deter-
21 mined by the Secretary) over the prior year; or

22 “(B) exceeds a threshold established by the
23 Secretary.

24 “(2) USE OF SYSTEM.—In determining which
25 home health agencies qualify for a value-based pay-

1 ment under paragraph (1), the Secretary shall use
2 the quality measurement system developed for this
3 section pursuant to section 1860E-1(a).

4 “(3) DETERMINATION OF AMOUNT OF AWARD
5 AND ALLOCATION OF AWARDS.—

6 “(A) IN GENERAL.—The Secretary shall
7 determine—

8 “(i) the amount of a value-based pay-
9 ment under paragraph (1) provided to a
10 home health agency; and

11 “(ii) subject to subparagraph (B), the
12 allocation of the total amount available
13 under subsection (d) for value-based pay-
14 ments for any year between payments with
15 respect to agencies that meet the require-
16 ment under subparagraph (A) of para-
17 graph (1) and agencies that meet the re-
18 quirement under subparagraph (B) of such
19 paragraph.

20 “(B) REQUIREMENTS REGARDING THE
21 AMOUNT OF FUNDING AVAILABLE FOR VALUE-
22 BASED PAYMENTS FOR AGENCIES EXCEEDING A
23 THRESHOLD.—The Secretary shall ensure
24 that—

1 “(i) a majority of the total amount
2 available under subsection (d) for value-
3 based payments for any year is provided to
4 home health agencies that are receiving
5 such payments because they meet the re-
6 quirement under paragraph (1)(B); and

7 “(ii) with respect to 2009 and each
8 subsequent year, the percentage of the
9 total amount available under subsection (d)
10 for value-based payments for any year that
11 is used to make payments to agencies that
12 meet such requirement is greater than
13 such percentage in the previous year.

14 “(4) REQUIREMENTS.—

15 “(A) REQUIRED SUBMISSION OF DATA.—

16 In order for a home health agency to be eligible
17 for a value-based payment for a year, the agen-
18 cy must have complied with the requirements
19 under section 1895(b)(3)(B)(v)(II) with respect
20 to that year.

21 “(B) ATTESTATION REGARDING DATA.—In

22 order for a home health agency to be eligible for
23 a value-based payment for a year, the agency
24 must have provided the Secretary (under proce-
25 dures established by the Secretary) with an at-

1 testation that the data submitted under section
2 1895(b)(3)(B)(v)(II) with respect to that year
3 is complete and accurate.

4 “(5) TOTAL AMOUNT OF VALUE-BASED PAY-
5 MENTS EQUAL TO TOTAL AMOUNT OF AVAILABLE
6 FUNDING.—The Secretary shall establish payment
7 amounts under paragraph (3)(A) so that, as esti-
8 mated by the Secretary, the total amount of value-
9 based payments made in a year under paragraph (1)
10 is equal to the total amount available under sub-
11 section (d) for such payments for the year.

12 “(6) PAYMENT METHODS AND TIMING OF PAY-
13 MENTS.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the payment of value-based pay-
16 ments under paragraph (1) shall be based on
17 such a method as the Secretary determines ap-
18 propriate.

19 “(B) TIMING.—The Secretary shall ensure
20 that value-based payments under paragraph (1)
21 with respect to a year are made by not later
22 than December 31 of the subsequent year.

23 “(c) DESCRIPTION OF HOW AGENCIES WOULD HAVE
24 FARED UNDER PROGRAM.—Not later than January 1,
25 2008, the Secretary shall provide each home health agency

1 with a description of the Secretary's estimate of how pay-
2 ments to the agency under this title would have been af-
3 fected with respect to items and services furnished during
4 a period, as determined by the Secretary, if the program
5 under this section (and the amendments made by section
6 6110(f) of the Deficit Reduction Omnibus Reconciliation
7 Act of 2005) had been in effect with respect to that period.

8 “(d) FUNDING.—

9 “(1) AMOUNT.—The amount available for
10 value-based payments under this section with respect
11 to a year shall be equal to the amount of the reduc-
12 tion in expenditures under the Federal Hospital In-
13 surance Trust Fund under section 1817 and Federal
14 Supplementary Medical Insurance Trust Fund under
15 section 1841 in the year as a result of the applica-
16 tion of section 1895(b)(3)(D), as estimated by the
17 Secretary.

18 “(2) PAYMENTS FROM TRUST FUND.—Pay-
19 ments to home health agencies under this section
20 shall be made from the Federal Hospital Insurance
21 Trust Fund and Federal Supplementary Medical In-
22 surance Trust Fund, in the same proportion as pay-
23 ments for home health services are made from such
24 trust funds.”.

25 (b) HOSPITALS.—

1 (1) VOLUNTARY SUBMISSION OF HOSPITAL
2 QUALITY DATA.—

3 (A) UPDATE FOR HOSPITALS THAT SUB-
4 MIT QUALITY DATA.—Section 1886(b)(3)(B)
5 (42 U.S.C. 1395ww(b)(3)(B)) is amended—

6 (i) in clause (vii)—

7 (I) in subclause (I), by striking
8 “for each of fiscal years 2005 through
9 2007” and inserting “for fiscal years
10 2005 and 2006”; and

11 (II) in subclause (II), by striking
12 “Each” and inserting “For fiscal
13 years 2005 and 2006, each”; and

14 (ii) by adding at the end the following
15 new clause:

16 “(viii)(I) For purposes of clause
17 (i)(XX), for fiscal year 2007 and each sub-
18 sequent fiscal year, in the case of a sub-
19 section (d) hospital that does not submit
20 data in accordance with subclause (II) with
21 respect to such a fiscal year, the applicable
22 percentage increase under such clause for
23 such fiscal year shall be reduced by 2 per-
24 centage points. Such reduction shall apply
25 only with respect to the fiscal year in-

1 volved, and the Secretary shall not take
2 into account such reduction in computing
3 the applicable percentage increase under
4 clause (i)(XX) for a subsequent fiscal year.

5 “(II) For fiscal year 2007 and each
6 subsequent fiscal year, each subsection (d)
7 hospital shall submit to the Secretary such
8 data that the Secretary determines is ap-
9 propriate for the measurement of health
10 care quality, including data necessary for
11 the operation of the PPS hospital value-
12 based purchasing program under section
13 1860E-2. Such data shall be submitted in
14 a form and manner, and at a time, speci-
15 fied by the Secretary for purposes of this
16 clause.

17 “(III) The Secretary shall establish
18 procedures for making data submitted
19 under subclause (II) available to the public
20 in a clear and understandable form. Such
21 procedures shall ensure that a subsection
22 (d) hospital has the opportunity to review
23 the data that is to be made public with re-
24 spect to the hospital prior to such data
25 being made public.”.

1 (B) CONFORMING AMENDMENTS.—Section
 2 1886(b)(3)(B)(i) (42 U.S.C.
 3 1395ww(b)(3)(B)(i)) is amended—

4 (i) in subclause (XIX), by striking
 5 “2007” and inserting “2006”; and

6 (ii) in subclause (XX)—

7 (I) by striking “2008” and in-
 8 serting “2007”; and

9 (II) by inserting “subject to
 10 clause (viii),” after “fiscal year,”.

11 (2) REDUCTION IN PAYMENTS IN ORDER TO
 12 FUND PROGRAM.—

13 (A) REDUCTION IN PAYMENTS.—Section
 14 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is
 15 amended—

16 (i) in clause (iv), by striking “5 per-
 17 cent nor more than 6 percent” and insert-
 18 ing “the applicable lower percent nor more
 19 than the applicable upper percent”; and

20 (ii) by adding at the end the following
 21 new clause:

22 “(vii) For purposes of clause (iv)—

23 “(I) for fiscal years prior to 2007, the ‘lower
 24 percent’ is 5.0 percent and the ‘upper percent’ is 6.0
 25 percent;

1 “(II) for fiscal year 2007, the ‘lower percent’ is
2 4.0 percent and the ‘upper percent’ is 5.0 percent;

3 “(III) for fiscal year 2008, the ‘lower percent’
4 is 3.75 percent and the ‘upper percent’ is 4.75 per-
5 cent;

6 “(IV) for fiscal year 2009, the ‘lower percent’
7 is 3.5 percent and the ‘upper percent’ is 4.5 percent;

8 “(V) for fiscal year 2010, the ‘lower percent’ is
9 3.25 percent and the ‘upper percent’ is 4.25 percent;
10 and

11 “(VI) for fiscal year 2011 and each subsequent
12 fiscal year, the ‘lower percent’ is 3.0 percent and the
13 ‘upper percent’ is 4.0 percent.”.

14 (B) CONTINUATION OF CURRENT LEVEL
15 OF REDUCTIONS TO THE AVERAGE STANDARD-
16 IZED AMOUNT.—Section 1886(d)(3)(B) (42
17 U.S.C. 1395ww(d)(3)(B)) is amended to read
18 as follows:

19 “(B) REDUCING FOR VALUE OF OUTLIER PAY-
20 MENTS AND FOR FUNDING OF HOSPITAL VALUE-
21 BASED PURCHASING PROGRAM.—

22 “(i) IN GENERAL.—The Secretary shall re-
23 duce each of the average standardized amounts
24 determined under subparagraph (A) by a factor
25 equal to a fraction—

1 “(I) the numerator of which is the
2 sum of—

3 “(aa) the additional payments
4 described in paragraph (5)(A) (relat-
5 ing to outlier payments); and

6 “(bb) the applicable percent of
7 the total payments projected or esti-
8 mated to be made based on DRG pro-
9 spective payment rates for discharges
10 in that year; and

11 “(II) the denominator of which is the
12 total payments projected or estimated to
13 be made based on DRG prospective pay-
14 ment rates for discharges in that year.

15 “(ii) APPLICABLE PERCENT.—For pur-
16 poses of clause (i)(I)(bb), the term ‘applicable
17 percent’ means—

18 “(I) for fiscal years prior to fiscal
19 year 2007, 0 percent;

20 “(II) for fiscal year 2007, 1.0 percent;

21 “(III) for fiscal year 2008, 1.25 per-
22 cent;

23 “(IV) for fiscal year 2009, 1.5 per-
24 cent;

1 “(V) for fiscal year 2010, 1.75 per-
2 cent; and

3 “(VI) for fiscal year 2011 and each
4 subsequent year, 2.0 percent.”.

5 (3) VALUE-BASED PURCHASING DEMONSTRA-
6 TION PROGRAM FOR CRITICAL ACCESS HOSPITALS.—

7 (A) ESTABLISHMENT.—Not later than 6
8 months after the date of enactment of this Act,
9 the Secretary shall establish a 2-year dem-
10 onstration program under which the Secretary
11 establishes a value-based purchasing program
12 under the Medicare program under title XVIII
13 of the Social Security Act for critical access
14 hospitals (as defined in section 1861(mm)(1) of
15 such Act (42 U.S.C. 1395x(mm)(1)) in order to
16 test innovative methods of measuring and re-
17 warding quality health care furnished by such
18 hospitals.

19 (B) SITES.—The Secretary shall conduct
20 the demonstration program at 6 critical access
21 hospitals. The Secretary shall ensure that such
22 hospitals are representative of the spectrum of
23 such hospitals that participate in the Medicare
24 program.

1 (C) WAIVER AUTHORITY.—The Secretary
2 may waive such requirements of titles XI and
3 XVIII of the Social Security Act as may be nec-
4 essary to carry out the demonstration program.

5 (D) FUNDING.—The Secretary shall pro-
6 vide for the transfer from the Federal Hospital
7 Insurance Trust Fund under section 1817 of
8 the Social Security Act (42 U.S.C. 1395i) of
9 such funds as are necessary for the costs of car-
10 rying out the demonstration program.

11 (E) REPORT.—Not later than 6 months
12 after the demonstration program is completed,
13 the Secretary shall submit to Congress a report
14 on the demonstration program together with
15 recommendations on the establishment of a per-
16 manent value-based purchasing program under
17 the Medicare program for critical access hos-
18 pitals and recommendations for such other leg-
19 islation or administrative action as the Sec-
20 retary determines appropriate.

21 (c) PHYSICIANS AND PRACTITIONERS.—

22 (1) VOLUNTARY SUBMISSION OF PHYSICIAN
23 AND PRACTITIONER QUALITY DATA.—

24 (A) UPDATE FOR PHYSICIANS AND PRACTI-
25 TIONERS THAT SUBMIT QUALITY DATA.—Sec-

1 tion 1848(d)(4) (42 U.S.C. 1395w-4(d)(4)) is
2 amended by adding at the end the following
3 new subparagraph:

4 “(G) ADJUSTMENT IF QUALITY DATA NOT
5 SUBMITTED.—

6 “(i) ADJUSTMENT.—For 2007 and
7 each subsequent year, in the case of serv-
8 ices furnished by a physician or a practi-
9 tioner (as defined in section 1860E-
10 3(a)(3)) that does not submit data in ac-
11 cordance with clause (ii) with respect to
12 such a year, the update otherwise deter-
13 mined under subparagraph (A) shall be re-
14 duced by 2 percentage points. Such reduc-
15 tion shall apply only with respect to the
16 year involved, and the Secretary shall not
17 take into account such reduction in com-
18 puting the conversion factor for a subse-
19 quent year.

20 “(ii) SUBMISSION OF QUALITY
21 DATA.—For 2007 and each subsequent
22 year, each physician and practitioner (as
23 defined in section 1860E-3(a)(3)) shall
24 submit to the Secretary such data that the
25 Secretary determines is appropriate for the

1 measurement of health outcomes and other
2 indices of quality, including data necessary
3 for the operation of the physician and
4 practitioner value-based purchasing pro-
5 gram under section 1860E-3. Such data
6 shall be submitted in a form and manner,
7 and at a time, specified by the Secretary
8 for purposes of this subparagraph.

9 “(iii) AVAILABLE TO THE PUBLIC.—

10 “(I) IN GENERAL.—Subject to
11 subclauses (II) and (III), the Sec-
12 retary shall establish procedures for
13 making data submitted under clause
14 (ii), with respect to items and services
15 furnished on or after January 1,
16 2008, available to the public in 3
17 phases as follows:

18 “(aa) PHASE I.—During
19 phase I, the Secretary shall make
20 available to the public the iden-
21 tity of physicians and practi-
22 tioners that are submitting such
23 data.

24 “(bb) PHASE II.—During
25 phase II, the Secretary shall

1 make available to the public the
2 identity of physicians and practi-
3 tioners that are receiving a value-
4 based payment under section
5 1860E-3.

6 “(cc) PHASE III.—During
7 phase III, the Secretary shall
8 make data submitted under
9 clause (ii) available to the public
10 in a clear and understandable
11 form.

12 “(II) REVIEW.—The procedures
13 established under subclause (I) shall
14 ensure that a physician or practitioner
15 has the opportunity to review the data
16 that is to be made public with respect
17 to the physician or practitioner under
18 subclause (I)(cc) prior to such data
19 being made public.

20 “(III) EXCEPTIONS.—The Sec-
21 retary shall establish exceptions to the
22 requirement for making data available
23 to the public under subclause (I). In
24 providing for such exceptions, the Sec-
25 retary shall take into account the size

1 and specialty representation of the
2 practice involved.”.

3 (B) CONFORMING AMENDMENT.—Section
4 1848(d)(4)(A) (42 U.S.C. 1395w-4(d)(4)(A)) is
5 amended, in the matter preceding clause (i), by
6 striking “subparagraph (F)” and inserting
7 “subparagraphs (F) and (G)”.

8 (2) REDUCTION IN CONVERSION FACTOR FOR
9 PHYSICIANS AND PRACTITIONERS THAT SUBMIT
10 QUALITY DATA IN ORDER TO FUND PROGRAM.—

11 (A) IN GENERAL.—Section 1848(d) (42
12 U.S.C. 1395w-4(d)) is amended by adding at
13 the end the following new paragraph:

14 “(6) REDUCTION IN CONVERSION FACTOR FOR
15 PHYSICIANS AND PRACTITIONERS IN ORDER TO
16 FUND VALUE-BASED PURCHASING PROGRAM.—

17 “(A) IN GENERAL.—For 2009 and each
18 subsequent year, the single conversion factor
19 otherwise applicable under this subsection to
20 services furnished in the year by a physician or
21 a practitioner (as defined in section 1860E-
22 3(a)(3)) that complies with the requirements
23 under paragraph (4)(G)(ii) for the year (deter-
24 mined after application of the update under

1 paragraph (4)) shall be reduced by the applica-
 2 ble percent.

3 “(B) APPLICABLE PERCENT.—For pur-
 4 poses of subparagraph (A), the term ‘applicable
 5 percent’ means—

6 “(i) for 2009, 1.0 percent;

7 “(ii) for 2010, 1.25 percent;

8 “(iii) for 2011, 1.5 percent;

9 “(iv) for 2012, 1.75 percent; and

10 “(v) for 2013 and each subsequent
 11 year, 2.0 percent.”.

12 (B) CONFORMING AMENDMENT.—Section
 13 1848(d)(1)(A) (42 U.S.C. 1395w-4(d)(1)(A)) is
 14 amended by striking “The conversion factor”
 15 and inserting “Subject to paragraph (6), the
 16 conversion factor”.

17 (d) PLANS.—

18 (1) SUBMISSION OF QUALITY DATA.—

19 (A) MEDICARE ADVANTAGE ORGANIZA-
 20 TIONS.—Section 1852(e) (42 U.S.C. 1395w-
 21 22(e)), as amended by section 722 of the Medi-
 22 care Prescription Drug, Improvement, and
 23 Modernization Act of 2003 (Public Law 108-
 24 173; 117 Stat. 2347), is amended—

- 1 (i) in paragraph (1), by striking “an
2 MA private fee-for-service plan or”; and
- 3 (ii) in paragraph (3)—
- 4 (I) in subparagraph (A)—
- 5 (aa) in clause (i), by adding
6 at the end the following new sen-
7 tence: “Such data shall include
8 data necessary for the operation
9 of the plan value-based pur-
10 chasing program under section
11 1860E-4.”;
- 12 (bb) by redesignating clause
13 (iv) as clause (vi); and
- 14 (cc) by inserting after clause
15 (iii) the following new clauses:
- 16 “(iv) APPLICATION TO MA PRIVATE
17 FEE-FOR-SERVICE PLANS.—The Secretary
18 shall establish as appropriate by regulation
19 requirements for the collection, analysis,
20 and reporting of data that permits the
21 measurement of health outcomes and other
22 indices of quality for MA organizations
23 with respect to MA private fee-for-service
24 plans.”.

1 “(v) AVAILABILITY TO THE PUBLIC.—
2 The Secretary shall establish procedures
3 for making data reported under this sub-
4 paragraph available to the public in a clear
5 and understandable form. Such procedures
6 shall ensure that an MA organization has
7 the opportunity to review the data that is
8 to be made public with respect to the plan
9 offered by the organization prior to such
10 data being made public.”; and

11 (II) in subparagraph (B)—
12 (aa) in clause (i), by striking
13 “The” and inserting “Subject to
14 clause (ii), the”; and
15 (bb) by striking clause (ii)
16 and inserting the following new
17 clause:

18 “(ii) CHANGES IN TYPES OF DATA.—
19 Subject to clause (iii), the Secretary may
20 only change the types of data that are re-
21 quired to be submitted under subpara-
22 graph (A) after submitting to Congress a
23 report on the reasons for such changes
24 that was prepared—

1 “(I) in the case of data necessary
2 for the operation of the plan value-
3 based purchasing program under sec-
4 tion 1860E-4, after the requirements
5 under subsections (c) and (d) of sec-
6 tion 1860E-1 have been complied
7 with; and

8 “(II) in the case of any other
9 data, in consultation with MA organi-
10 zations and private accrediting bod-
11 ies.”.

12 (B) ELIGIBLE ENTITIES WITH REASON-
13 ABLE COST CONTRACTS.—Section 1876(h) (42
14 U.S.C. 1395mm(h)) is amended by adding at
15 the end the following new paragraph:

16 “(6)(A) With respect to plan years beginning on or
17 after January 1, 2006, an eligible entity with a reasonable
18 cost reimbursement contract under this subsection shall
19 submit to the Secretary such data that the Secretary de-
20 termines is appropriate for the measurement of health out-
21 comes and other indices of quality, including data nec-
22 essary for the operation of the plan value-based pur-
23 chasing program under section 1860E-4. Such data shall
24 be submitted in a form and manner, and at a time, speci-
25 fied by the Secretary for purposes of this subparagraph.

1 “(B) The Secretary shall establish procedures for
2 making data reported under subparagraph (A) available
3 to the public in a clear and understandable form. Such
4 procedures shall ensure that an eligible entity has the op-
5 portunity to review the data that is to be made public with
6 respect to the contract prior to such data being made pub-
7 lic.”.

8 (C) EFFECTIVE DATE.—The amendments
9 made by this subsection shall apply to plan
10 years beginning on or after January 1, 2006.

11 (D) SENSE OF THE SENATE.—It is the
12 sense of the Senate that, in establishing the
13 timeframes for Medicare Advantage organiza-
14 tions and entities with a reasonable cost reim-
15 bursement contract under section 1876(h) of
16 the Social Security Act (42 U.S.C. 1395mm(h))
17 to report quality data under sections 1852(e)(3)
18 and 1876(h)(6), respectively, of such Act, as
19 added by this section, the Secretary should take
20 into account other timeframes for reporting
21 quality data that such organizations and enti-
22 ties are subject to under other Federal and
23 State programs and in the commercial market.

24 (2) REDUCTION IN PAYMENTS TO ORGANIZA-
25 TIONS IN ORDER TO FUND PROGRAM.—

1 (A) MEDICARE ADVANTAGE PAYMENTS.—

2 (i) IN GENERAL.—Section 1853(a)(1)
 3 (42 U.S.C. 1395w–23(a)(1)), as amended
 4 by section 222(e) of the Medicare Prescrip-
 5 tion Drug, Improvement, and Moderniza-
 6 tion Act of 2003 (Public Law 108–173;
 7 117 Stat. 2200), is amended—

8 (I) in clauses (i) and (ii) of sub-
 9 paragraph (B), by inserting “and, for
 10 2009 and each subsequent year, ex-
 11 cept in the case of an MSA plan or an
 12 MA plan for which there was no con-
 13 tract under section 1857 during either
 14 of the preceding 2 years, reduced by
 15 the applicable percent (as defined in
 16 subparagraph (I))” after “(G)”; and

17 (II) by adding at the end the fol-
 18 lowing new subparagraph:

19 “(I) APPLICABLE PERCENT.—For pur-
 20 poses of clauses (i) and (ii) of subparagraph
 21 (B), the term ‘applicable percent’ means—

22 “(i) for 2009, 1.0 percent;

23 “(ii) for 2010, 1.25 percent;

24 “(iii) for 2011, 1.5 percent;

25 “(iv) for 2012, 1.75 percent; and

1 “(v) for 2013 and each subsequent
2 year, 2.0 percent.”.

3 (iii) REDUCTIONS IN PAYMENTS DO
4 NOT AFFECT THE REBATE FOR BIDS
5 BELOW THE BENCHMARK.—The amend-
6 ments made by subparagraph (A) shall not
7 be construed to have any effect on—

8 (I) the determination of whether
9 a Medicare Advantage plan has aver-
10 age per capita monthly savings de-
11 scribed in paragraph (3)(C) or (4)(C)
12 of section 1854(b) of the Social Secu-
13 rity Act (42 U.S.C. 1395w–24(b)); or

14 (II) the amount of such savings.

15 (A) REASONABLE COST CONTRACT PAY-
16 MENTS.—Section 1876(h) (42 U.S.C.
17 1395mm(h)), as amended by subsection (a)(2),
18 is amended by adding at the end the following
19 new paragraph:

20 “(7) Notwithstanding the preceding provisions of this
21 subsection, the Secretary shall reduce each payment to an
22 eligible organization under this subsection with respect to
23 benefits provided on or after January 1, 2009, by an
24 amount equal to the applicable percent (as defined in sec-
25 tion 1853(a)(1)(I)) of the payment amount.”.

1 (3) REQUIREMENT FOR REPORTING ON USE OF
2 VALUE-BASED PAYMENTS.—

3 (A) MA PLANS.—Section 1854(a) (42
4 U.S.C. 1395w-24(a)), as amended by section
5 222(a) of the Medicare Prescription Drug, Im-
6 provement, and Modernization Act of 2003
7 (Public Law 108-173; 117 Stat. 2193), is
8 amended—

9 (i) in paragraph (1)(A)(i), by striking
10 “or (6)(A)” and inserting “(6)(A), or (7)”;

11 and

12 (ii) by adding at the end the fol-
13 lowing:

14 “(7) SUBMISSION OF INFORMATION OF HOW
15 VALUE-BASED PAYMENTS WILL BE USED.—For an
16 MA plan for a plan year beginning on or after Janu-
17 ary 1, 2011, the information described in this para-
18 graph is a description of how the organization offer-
19 ing the plan will use any value-based payments that
20 the organization received under section 1860E-4
21 with respect to the plan for the year preceding the
22 year in which such information is submitted.”.

23 (B) REASONABLE COST CONTRACTS.—Sec-
24 tion 1876(h) (42 U.S.C. 1395mm(h)), as

1 amended by subsection (c)(2), is amended by
2 adding at the end the following new paragraph:

3 “(8) Not later than July 1 of each year (beginning
4 in 2010), any eligible entity with a reasonable cost reim-
5 bursement contract under this subsection that received a
6 value-based payment under section 1860E-4 with respect
7 to the contract for the preceding year shall submit to the
8 Secretary a report containing a description of how the or-
9 ganization will use such payments under the contract.”.

10 (e) ESRD PROVIDERS AND FACILITIES.—

11 (1) VOLUNTARY SUBMISSION OF QUALITY
12 DATA.—Section 1881(b) (42 U.S.C. 1395rr(b)) is
13 amended by adding at the end the following new
14 paragraph:

15 “(14) By not later than July 31, 2006, the Sec-
16 retary shall establish procedures under which pro-
17 viders of services and renal dialysis facilities that re-
18 ceive payments under paragraph (12) or (13) may
19 submit to the Secretary data that permits the meas-
20 urement of health outcomes and other indices of
21 quality.”.

22 (2) REDUCTION IN CASE-MIX ADJUSTED PRO-
23 SPECTIVE PAYMENT AMOUNT IN ORDER TO FUND
24 PROGRAM.—Section 1881(b)(12) (42 U.S.C.
25 1395rr(b)(12)) is amended—

1 (A) by redesignating subparagraph (G) as
2 subparagraph (H); and

3 (B) by inserting after subparagraph (F)
4 the following new subparagraph:

5 “(G)(i) In the case of any payment made under
6 this paragraph for an item or service furnished on
7 or after January 1, 2007, such payment shall be re-
8 duced by the applicable percent. The preceding sen-
9 tence shall not apply to a payment for an item or
10 service furnished by a provider of services or a renal
11 dialysis facility that is excluded from the program
12 under section 1860E–5 by reason of subsection
13 (a)(3) of such section at the time the item or service
14 is furnished.

15 “(ii) For purposes of clause (i), the term ‘appli-
16 cable percent’ means—

17 “(I) for 2007, 1.0 percent;

18 “(II) for 2008, 1.25 percent;

19 “(III) for 2009, 1.5 percent;

20 “(IV) for 2010, 1.75 percent; and

21 “(V) for 2011 and each subsequent year,
22 2.0 percent.”.

23 (3) VALUE-BASED PURCHASING UNDER THE
24 DEMONSTRATION OF BUNDLED CASE-MIX ADJUSTED
25 PAYMENT SYSTEM FOR ESRD SERVICES.—Section

1 623(e) of the Medicare Prescription Drug, Improve-
 2 ment, and Modernization Act of 2003 (42 U.S.C.
 3 1395rr note) is amended by adding at the end the
 4 following new paragraph:

5 “(7) VALUE-BASED PURCHASING PROGRAM.—

6 As part of the demonstration project under this sub-
 7 section, the Secretary shall, beginning January 1,
 8 2007, implement a value-based purchasing program
 9 for providers and facilities participating in the dem-
 10 onstration project. The Secretary shall implement
 11 such value-based purchasing program in a similar
 12 manner as the ESRD provider and facility value-
 13 based purchasing program is implemented under
 14 section 1860E–5 of the Social Security Act, includ-
 15 ing the funding of such program.”.

16 (f) HOME HEALTH AGENCIES.—

17 (1) UPDATE FOR HOME HEALTH AGENCIES
 18 THAT SUBMIT QUALITY DATA.—Section
 19 1895(b)(3)(B) (42 U.S.C.fff(b)(3)(B)) is amended—

20 (A) in clause (ii)(IV), by inserting “subject
 21 to clause (v),” after “subsequent year,”; and

22 (B) by adding at the end the following new
 23 clause:

24 “(v) ADJUSTMENT IF QUALITY DATA
 25 NOT SUBMITTED.—

1 “(I) ADJUSTMENT.—For pur-
2 poses of clause (ii)(IV), for 2007 and
3 each subsequent year, in the case of a
4 home health agency that does not sub-
5 mit data in accordance with subclause
6 (II) with respect to such a year, the
7 home health market basket percentage
8 increase applicable under such clause
9 for such year shall be reduced by 2
10 percentage points. Such reduction
11 shall apply only with respect to the
12 year involved, and the Secretary shall
13 not take into account such reduction
14 in computing the prospective payment
15 amount under this section for a subse-
16 quent year.

17 “(II) SUBMISSION OF QUALITY
18 DATA.—For 2007 and each subse-
19 quent year, each home health agency
20 shall submit to the Secretary such
21 data that the Secretary determines is
22 appropriate for the measurement of
23 health care quality, including data
24 necessary for the operation of the
25 home health agency value-based pur-

1 chasing program under section
2 1860E-6. Such data shall be sub-
3 mitted in a form and manner, and at
4 a time, specified by the Secretary for
5 purposes of this clause.

6 “(III) PUBLIC AVAILABILITY OF
7 DATA SUBMITTED.—The Secretary
8 shall establish procedures for making
9 data submitted under subclause (II)
10 available to the public in a clear and
11 understandable form. Such procedures
12 shall ensure that a home health agen-
13 cy has the opportunity to review the
14 data that is to be made public with
15 respect to the agency prior to such
16 data being made public.”.

17 (2) REDUCTION IN STANDARD PROSPECTIVE
18 PAYMENT AMOUNT FOR AGENCIES THAT SUBMIT
19 QUALITY DATA IN ORDER TO FUND PROGRAM.—Sec-
20 tion 1895(b)(3) (42 U.S.C. 1395fff(b)(3)) is amend-
21 ed by adding at the end the following new subpara-
22 graph:

23 “(D) REDUCTION IN ORDER TO FUND
24 VALUE-BASED PURCHASING PROGRAM.—

1 “(i) IN GENERAL.—For 2008 and
 2 each subsequent year, in the case of a
 3 home health agency that complies with the
 4 submission requirements under section
 5 1895(b)(3)(B)(v)(II) for the year, the
 6 standard prospective payment amount (or
 7 amounts) otherwise applicable under this
 8 paragraph for the year shall be reduced by
 9 the applicable percent.

10 “(ii) APPLICABLE PERCENT.—For
 11 purposes of clause (i), the term ‘applicable
 12 percent’ means—

13 “(I) for 2008, 1.0 percent;

14 “(II) for 2009, 1.25 percent;

15 “(III) for 2010, 1.5 percent;

16 “(IV) for 2011, 1.75 percent;

17 and

18 “(V) for 2012 and each subse-
 19 quent year, 2.0 percent.”.

20 (g) SKILLED NURSING FACILITIES.—

21 (1) REQUIREMENT FOR SKILLED NURSING FA-
 22 CILITIES TO REPORT FUNCTIONAL CAPACITY OF
 23 MEDICARE RESIDENTS UPON ADMISSION AND DIS-
 24 CHARGE.—Section 1819(b) (42 U.S.C. 1395i–3(b))

1 is amended by adding at the end the following new
2 paragraph:

3 “(9) REPORTING FUNCTIONAL CAPACITY AT AD-
4 MISSION AND DISCHARGE.—

5 “(A) IN GENERAL.—On and after October
6 1, 2006, a skilled nursing facility must submit
7 a report to the Secretary on the functional ca-
8 pacity of each resident who is entitled to bene-
9 fits under this part at the time of—

10 “(i) the admission of such resident;

11 and

12 “(ii) the discharge of such resident.

13 “(B) TIMEFRAME.—A report required
14 under subparagraph (A) shall be submitted
15 within 10 days of the admission or discharge,
16 as the case may be.”.

17 (2) VOLUNTARY SUBMISSION OF SKILLED
18 NURSING FACILITY QUALITY DATA.—Section
19 1888(e)(4)(E) (42 U.S.C. 1395yy(e)(4)(E)) is
20 amended—

21 (A) in clause (ii)(IV), by inserting “subject
22 to clause (iii),” after “subsequent fiscal year,”;
23 and

24 (B) by adding at the end the following new
25 clause:

1 “(iii) ADJUSTMENT IF QUALITY DATA
2 NOT SUBMITTED.—

3 “(I) ADJUSTMENT.—For pur-
4 poses of clause (ii)(IV), for fiscal year
5 2009 and each subsequent fiscal year,
6 in the case of a skilled nursing facility
7 that does not submit data in accord-
8 ance with subclause (II) with respect
9 to such a fiscal year, the skilled nurs-
10 ing facility market basket percentage
11 change applicable under such clause
12 for such fiscal year shall be reduced
13 by 2 percentage points. Such reduc-
14 tion shall apply only with respect to
15 the fiscal year involved, and the Sec-
16 retary shall not take into account
17 such reduction in computing the Fed-
18 eral per diem rate under this section
19 for a subsequent fiscal year.

20 “(II) SUBMISSION OF QUALITY
21 DATA.—For fiscal year 2008 and each
22 subsequent fiscal year, each skilled
23 nursing facility shall submit to the
24 Secretary such data that the Sec-
25 retary determines, after conducting a

1 study in consultation with the entities
2 described in subsections (c)(1), (c)(2),
3 and (d) of section 1860E-1, is appro-
4 priate for the measurement of health
5 outcomes and other indices of quality.
6 Such data shall be submitted in a
7 form and manner, and at a time,
8 specified by the Secretary for pur-
9 poses of this clause.

10 “(III) PUBLIC AVAILABILITY OF
11 DATA SUBMITTED.—The Secretary
12 shall establish procedures for making
13 data submitted under subclause (II)
14 available to the public in a clear and
15 understandable form. Such procedures
16 shall ensure that a facility has the op-
17 portunity to review the data that is to
18 be made public with respect to the fa-
19 cility prior to such data being made
20 public.”.

21 (h) CONFORMING REFERENCES TO PREVIOUS PART
22 E.—Any reference in law (in effect before the date of the
23 enactment of this Act) to part E of title XVIII of the So-
24 cial Security Act is deemed a reference to part F of such
25 title (as in effect after such date).

1 **SEC. 6111. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEU-**
 2 **TRALITY IN DETERMINING THE AMOUNT OF**
 3 **PAYMENTS TO MEDICARE ADVANTAGE ORGA-**
 4 **NIZATIONS.**

5 (a) IN GENERAL.—Section 1853 (42 U.S.C. 1395w—
 6 23) is amended—

7 (1) in subsection (j)(1)—

8 (A) in subparagraph (A)—

9 (i) by inserting “(or, beginning with
 10 2007, $\frac{1}{12}$ of the applicable amount deter-
 11 mined under subsection (k)(1))” after
 12 “1853(c)(1)”; and

13 (ii) by inserting “(for years before
 14 2007)” after “adjusted as appropriate”;

15 (B) in subparagraph (B), by inserting
 16 “(for years before 2007)” after “adjusted as
 17 appropriate”; and

18 (2) by adding at the end the following new sub-
 19 section:

20 “(k) DETERMINATION OF APPLICABLE AMOUNT FOR
 21 PURPOSES OF CALCULATING THE BENCHMARK
 22 AMOUNTS.—

23 “(1) APPLICABLE AMOUNT DEFINED.—For
 24 purposes of subsection (j), subject to paragraph (2),
 25 the term ‘applicable amount’ means for an area—

26 “(A) for 2007—

1 “(i) if such year is not specified under
2 subsection (c)(1)(D)(ii), an amount equal
3 to the amount specified in subsection
4 (c)(1)(C) for the area for 2006—

5 “(I) first adjusted by the re-
6 scaling factor for 2006 for the area
7 (as made available by the Secretary in
8 the announcement of the rates on
9 April 4, 2005, under subsection
10 (b)(1), but excluding any national ad-
11 justment factors for coding intensity
12 and risk adjustment budget neutrality
13 that were included in such factor);
14 and

15 “(II) then increased by the na-
16 tional per capita MA growth percent-
17 age, described in subsection (c)(6) for
18 that succeeding year, but not taking
19 into account any adjustment under
20 subparagraph (C) of such subsection
21 for a year before 2004;

22 “(ii) if such year is specified under
23 subsection (c)(1)(D)(ii), an amount equal
24 to the greater of—

1 “(I) the amount determined
2 under clause (i) for the area for the
3 year; or

4 “(II) the amount specified in
5 subsection (c)(1)(D) for the area for
6 the year; and

7 “(B) for a subsequent year—

8 “(i) if such year is not specified under
9 subsection (c)(1)(D)(ii), an amount equal
10 to the amount determined under this para-
11 graph for the area for the previous year,
12 increased by the national per capita MA
13 growth percentage, described in subsection
14 (c)(6) for that succeeding year, but not
15 taking into account any adjustment under
16 subparagraph (C) of such subsection for a
17 year before 2004; and

18 “(ii) if such year is specified under
19 subsection (c)(1)(D)(ii), an amount equal
20 to the greater of—

21 “(I) the amount determined
22 under clause (i) for the area for the
23 year; or

1 “(II) the amount specified in
2 subsection (c)(1)(D) for the area for
3 the year.

4 “(2) ADJUSTMENT.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (D), in the case of 2007 through
7 2010, the applicable amount determined under
8 paragraph (1) shall be increased by a factor
9 equal to 1 plus the product of—

10 “(i) the percent determined under
11 subparagraph (B) for the year; and

12 “(ii) the applicable percent for the
13 year under subparagraph (C).

14 “(B) PERCENT DETERMINED.—

15 “(i) IN GENERAL.—For purposes of
16 subparagraph (A)(i), subject to clause (ii),
17 the percent determined under this subpara-
18 graph for a year is a percent equal to a
19 fraction—

20 “(I) the numerator of which is an
21 amount equal to—

22 “(aa) 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 annual MA capitation rate under
4 subsection (c)(1) for the area and
5 year; minus

6 “(bb) the Secretary’s esti-
7 mate of the total payments that
8 would have been made under this
9 part in the year if all the month-
10 ly payment amounts for all MA
11 plans were equal to $\frac{1}{12}$ of the
12 MA area-specific non-drug
13 monthly benchmark amount
14 under subsection (j) for the area
15 and year; and

16 “(II) the denominator of which is
17 equal to the total amount estimated
18 for the year under subclause (I)(bb).

19 “(ii) REQUIREMENTS.—In estimating
20 the amounts under clause (i), the
21 Secretary—

22 “(I) shall—

23 “(aa) use a complete set of
24 the most recent and representa-
25 tive Medicare Advantage risk

1 scores under subsection (a)(3)
2 that are available from the risk
3 adjustment model announced for
4 the year;

5 “(bb) adjust the risk scores
6 to reflect changes in treatment
7 and coding practices in the fee-
8 for-service sector;

9 “(cc) adjust the risk scores
10 for differences in coding patterns
11 between Medicare Advantage
12 plans and providers under part A
13 and B to the extent that the Sec-
14 retary has identified such dif-
15 ferences;

16 “(dd) as necessary, adjust
17 the risk scores for late data sub-
18 mitted by Medicare Advantage
19 organizations;

20 “(ee) as necessary, adjust
21 the risk scores for lagged cohorts;
22 and

23 “(ff) as necessary, adjust
24 the risk scores for changes in en-

1 rollment in Medicare Advantage
2 plans during the year; and

3 “(II) may take into account the
4 estimated health risk of enrollees in
5 preferred provider organization plans
6 (including MA regional plans) for the
7 year.

8 In order to make the adjustment required
9 under item (cc) and to ensure payment ac-
10 curacy, the Secretary shall conduct an
11 analysis of the differences described in
12 such item. The Secretary shall complete
13 such analysis by a date necessary to ensure
14 that the results of such analysis are incor-
15 porated into the payment rates for a year
16 not later than 2008. In conducting such
17 analysis, the Secretary shall use data sub-
18 mitted with respect to 2004 and subse-
19 quent years, as available.

20 “(C) APPLICABLE PERCENT.—For pur-
21 poses of subparagraph (A)(ii), the term ‘appli-
22 cable percent’ means—

23 “(i) for 2007, 55 percent;

24 “(ii) for 2008, 40 percent;

25 “(iii) for 2009, 25 percent; and

1 “(iv) for 2010, 5 percent.

2 “(D) TERMINATION OF ADJUSTMENT.—

3 The Secretary shall not make any adjustment
4 under subparagraph (A) in a year if the
5 amount estimated under subparagraph
6 (B)(i)(I)(bb) for the year is equal to or greater
7 than the amount estimated under subparagraph
8 (B)(i)(I)(aa) for the year.

9 “(3) NO ADDITIONAL ADJUSTMENTS.—

10 “(A) IN GENERAL.—Except for the adjust-
11 ment provided for in paragraph (2), the Sec-
12 retary may not make any adjustment to the ap-
13 plicable amount determined in paragraph (1)
14 for any year.

15 “(B) RULE OF CONSTRUCTION.—Nothing
16 in this subsection shall be construed to limit the
17 authority of the Secretary to risk adjust the
18 amount under subsection (c)(1)(D) pursuant to
19 clause (i) of such subsection.”.

20 (b) REFINEMENTS TO HEALTH STATUS ADJUST-
21 MENT.—Section 1853(a)(1)(C) (42 U.S.C. 1395w-23) is
22 amended by inserting after the first sentence the following
23 new sentence: “In applying such adjustment for health
24 status to such payment amounts, the Secretary shall en-
25 sure that such adjustment reflects changes in treatment

1 and coding practices in the fee-for-service sector and re-
 2 flects differences in coding patterns between Medicare Ad-
 3 vantage plans and providers under part A and B to the
 4 extent that the Secretary has identified such differences.”.

5 **SEC. 6112. ELIMINATION OF MEDICARE ADVANTAGE RE-**
 6 **GIONAL PLAN STABILIZATION FUND.**

7 (a) **ELIMINATION.**—

8 (1) **IN GENERAL.**—Subsection (e) of section
 9 1858 (42 U.S.C. 1395w-27a) is repealed.

10 (2) **CONFORMING AMENDMENT.**—Section
 11 1858(f)(1) (42 U.S.C. 1395w-27a(f)(1)) is amended
 12 by striking “subject to subsection (e),”.

13 (3) **EFFECTIVE DATE.**—The amendments made
 14 by this subsection shall take effect as if included in
 15 the enactment of section 221(c) of the Medicare Pre-
 16 scription Drug, Improvement, and Modernization
 17 Act of 2003 (Public Law 108-173; 117 Stat. 2181).

18 (b) **TIMEFRAME FOR PART A AND B PAYMENTS.**—
 19 Notwithstanding sections 1816(c) and 1842(e)(2) of the
 20 Social Security Act or any other provision of law—

21 (1) any payment from the Federal Hospital In-
 22 surance Trust Fund under section 1817 of the So-
 23 cial Security Act (42 U.S.C. 1395i) or from the Fed-
 24 eral Supplementary Medical Insurance Trust Fund
 25 under section 1841 of such Act (42 U.S.C. 1395t)

1 for claims submitted under part A or B of title
2 XVIII of such Act for items and services furnished
3 under such part A or B, respectively, that would
4 otherwise be payable during the period beginning on
5 September 22, 2006, and ending on September 30,
6 2006, shall be paid on the first business day of Oc-
7 tober 2006; and

8 (2) no interest or late penalty shall be paid to
9 an entity or individual for any delay in a payment
10 by reason of the application of paragraph (1).

11 **SEC. 6113. RURAL PACE PROVIDER GRANT PROGRAM.**

12 (a) DEFINITIONS.—In this section:

13 (1) CMS.—The term “CMS” means the Cen-
14 ters for Medicare & Medicaid Services.

15 (2) ELIGIBLE PARTICIPANT.—The term “eligi-
16 ble participant” means a PACE program eligible in-
17 dividual (as defined in sections 1894(a)(5) and
18 1934(a)(5) of the Social Security Act (42 U.S.C.
19 1395eee(a)(5); 1396u-4(a)(5))).

20 (3) PACE PROGRAM.—The term “PACE pro-
21 gram” has the meaning given that term in sections
22 1894(a)(2) and 1934(a)(2) of the Social Security
23 Act (42 U.S.C. 1395eee(a)(2); 1396u-4(a)(2)).

24 (4) PACE PROVIDER.—The term “PACE pro-
25 vider” has the meaning given that term in section

1 1894(a)(3) or 1934(a)(3) of the Social Security Act
2 (42 U.S.C. 1395eee(a)(3); 1396u-4(a)(3)).

3 (5) RURAL AREA.—The term “rural area” has
4 the meaning given that term in section
5 1886(d)(2)(D) of the Social Security Act (42 U.S.C.
6 1395ww(d)(2)(D)).

7 (6) RURAL PACE PILOT SITE.—The term “rural
8 PACE pilot site” means a PACE provider that has
9 been approved to provide services in a geographic
10 service area that is, in whole or in part, a rural area,
11 and that has received a site development grant
12 under this section.

13 (7) SECRETARY.—The term “Secretary” means
14 the Secretary of Health and Human Services.

15 (b) SITE DEVELOPMENT GRANTS AND TECHNICAL
16 ASSISTANCE PROGRAM.—

17 (1) SITE DEVELOPMENT GRANTS.—

18 (A) IN GENERAL.—The Secretary shall es-
19 tablish a process and criteria to award site de-
20 velopment grants to qualified PACE providers
21 that have been approved to serve a geographic
22 service area that is, in whole or in part, a rural
23 area.

24 (B) AMOUNT PER AWARD.—A site develop-
25 ment grant awarded under subparagraph (A) to

1 any individual rural PACE pilot site shall not
2 exceed \$750,000.

3 (C) NUMBER OF AWARDS.—Not more than
4 15 rural PACE pilot sites shall be awarded a
5 site development grant under subparagraph
6 (A).

7 (D) USE OF FUNDS.—Funds made avail-
8 able under a site development grant awarded
9 under subparagraph (A) may be used for the
10 following expenses only to the extent such ex-
11 penses are incurred in relation to establishing
12 or delivering PACE program services in a rural
13 area:

14 (i) Feasibility analysis and planning.

15 (ii) Interdisciplinary team develop-
16 ment.

17 (iii) Development of a provider net-
18 work, including contract development.

19 (iv) Development or adaptation of
20 claims processing systems.

21 (v) Preparation of special education
22 and outreach efforts required for the
23 PACE program.

1 (vi) Development of expense reporting
2 required for calculation of outlier payments
3 or reconciliation processes.

4 (vii) Development of any special qual-
5 ity of care or patient satisfaction data col-
6 lection efforts.

7 (viii) Establishment of a working cap-
8 ital fund to sustain fixed administrative,
9 facility, or other fixed costs until the pro-
10 vider reaches sufficient enrollment size.

11 (ix) Startup and development costs in-
12 curred prior to the approval of the rural
13 PACE pilot site's PACE provider applica-
14 tion by CMS.

15 (x) Any other efforts determined by
16 the rural PACE pilot site to be critical to
17 its successful startup, as approved by the
18 Secretary.

19 (E) APPROPRIATION.—

20 (i) IN GENERAL.—Out of funds in the
21 Treasury not otherwise appropriated, there
22 are appropriated to the Secretary to carry
23 out this subsection for the period of fiscal
24 years 2006 through 2007, \$7,500,000.

1 (ii) AVAILABILITY.—Funds appro-
2 priated under clause (i) shall remain avail-
3 able for expenditure through fiscal year
4 2010.

5 (2) TECHNICAL ASSISTANCE PROGRAM.—The
6 Secretary shall establish a technical assistance pro-
7 gram to provide—

8 (A) outreach and education to State agen-
9 cies and provider organizations interested in es-
10 tablishing PACE programs in rural areas; and

11 (B) technical assistance necessary to sup-
12 port rural PACE pilot sites.

13 (c) COST OUTLIER PROTECTION FOR RURAL PACE
14 PILOT SITES.—

15 (1) ESTABLISHMENT OF FUND FOR REIM-
16 BURSEMENT OF OUTLIER COSTS.—

17 (A) IN GENERAL.—Notwithstanding any
18 other provision of law, the Secretary shall es-
19 tablish an outlier fund to reimburse rural
20 PACE pilot sites for outlier costs (as defined in
21 subparagraph (B)) incurred for eligible partici-
22 pants who reside in a rural area in accordance
23 with the expense payment specified in subpara-
24 graph (C).

25 (B) OUTLIER COSTS DEFINED.—

1 (i) IN GENERAL.—In subparagraph
2 (A), the term “outlier costs” means the in-
3 patient and related physician and ancillary
4 costs in excess of \$50,000 incurred within
5 a given 12-month period for an eligible
6 participant who resides in a rural area.

7 (ii) INCLUSION IN ONLY 1 PERIOD.—
8 Outlier costs may not be included in more
9 than one 12-month period for purposes of
10 calculating an outlier expense payment
11 under subparagraph (C).

12 (C) OUTLIER EXPENSE PAYMENT.—

13 (i) PAYMENT FOR OUTLIER COSTS.—
14 Subject to clause (ii), in the case of a rural
15 PACE pilot site that has incurred outlier
16 costs for an eligible participant, the rural
17 PACE pilot site shall receive an outlier ex-
18 pense payment equal to 80 percent of such
19 costs.

20 (ii) LIMITATIONS.—

21 (I) COSTS INCURRED PER ELIGI-
22 BLE PARTICIPANT.—The total amount
23 of outlier expense payments made
24 under clause (i) to a rural PACE pilot
25 site for outlier costs incurred with re-

1 spect to an eligible participant shall
2 not exceed \$100,000 for the 12-month
3 period used to calculate the payment.

4 (II) COSTS INCURRED PER PRO-
5 VIDER.—No rural PACE pilot site
6 may receive more than \$500,000 in
7 total outlier expense payments in a
8 12-month period.

9 (III) LIMITATION OF OUTLIER
10 COST REIMBURSEMENT PERIOD.—A
11 rural PACE pilot site shall only re-
12 ceive outlier expense payments under
13 this subparagraph with respect to
14 outlier costs incurred during the first
15 3 years of the site’s operation.

16 (D) REQUIREMENT TO ACCESS RISK RE-
17 SERVES PRIOR TO PAYMENT.—A rural PACE
18 pilot site shall access and exhaust any risk re-
19 serves held or arranged for the provider (other
20 than revenue or reserves maintained to satisfy
21 the requirements of section 460.80(c) of title
22 42, Code of Federal Regulations) and any
23 working capital established through a site devel-
24 opment grant awarded under subsection (b)(1),

1 prior to receiving any payment from the outlier
2 fund.

3 (E) APPROPRIATION.—

4 (i) IN GENERAL.—Out of funds in the
5 Treasury not otherwise appropriated, there
6 are appropriated to the Secretary to carry
7 out this subsection for the period of fiscal
8 years 2006 through 2007, \$10,000,000.

9 (ii) AVAILABILITY.—Funds appro-
10 priated under clause (i) shall remain avail-
11 able for expenditure through fiscal year
12 2010.

13 (d) EVALUATION OF PACE PROVIDERS SERVING
14 RURAL SERVICE AREAS.—Not later than 60 months after
15 the date of enactment of this Act, the Secretary shall sub-
16 mit a report to Congress containing an evaluation of the
17 experience of rural PACE pilot sites.

18 (e) AMOUNTS IN ADDITION TO PAYMENTS UNDER
19 SOCIAL SECURITY ACT.—Any amounts paid under the au-
20 thority of this section to a PACE provider shall be in addi-
21 tion to payments made to the provider under section 1894
22 or 1934 of the Social Security Act (42 U.S.C. 1395eee;
23 1396u-4).

1 **SEC. 6114. WAIVER OF PART B LATE ENROLLMENT PEN-**
2 **ALTY FOR CERTAIN INTERNATIONAL VOLUN-**
3 **TEERS.**

4 (a) IN GENERAL.—

5 (1) WAIVER OF PENALTY.—Section 1839(b)(42
6 U.S.C. 1395r(b)) is amended in the second sentence
7 by inserting the following before the period at the
8 end: “or months for which the individual can dem-
9 onstrate that the individual was an individual de-
10 scribed in section 1837(k)(3)”.

11 (2) SPECIAL ENROLLMENT PERIOD.—

12 (A) IN GENERAL.—Section 1837 (42
13 U.S.C. 1395p) is amended by adding at the end
14 the following new subsection:

15 “(k)(1) In the case of an individual who—

16 “(A) at the time the individual first satisfies
17 paragraph (1) or (2) of section 1836, is described in
18 paragraph (3), and has elected not to enroll (or to
19 be deemed enrolled) under this section during the in-
20 dividual’s initial enrollment period; or

21 “(B) has terminated enrollment under this sec-
22 tion during a month in which the individual is de-
23 scribed in paragraph (3),

24 there shall be a special enrollment period described in
25 paragraph (2).

1 “(2) The special enrollment period referred to in
2 paragraph (1) is the 6-month period beginning on the first
3 day of the month which includes the date that the indi-
4 vidual is no longer described in paragraph (3).

5 “(3) For purposes of paragraph (1), an individual de-
6 scribed in this paragraph is an individual that is serving
7 as a volunteer outside of the United States through a
8 program—

9 “(A) that covers at least a 12-month period;
10 and

11 “(B) that is sponsored by an organization de-
12 scribed in section 501(c)(3) of the Internal Revenue
13 Code of 1986 and exempt from taxation under sec-
14 tion 501(a) of such Code.”.

15 (B) COVERAGE PERIOD.—Section 1838
16 (42 U.S.C. 1395q) is amended by adding at the
17 end the following new subsection:

18 “(f) Notwithstanding subsection (a), in the case of
19 an individual who enrolls during a special enrollment pe-
20 riod pursuant to section 1837(k), the coverage period shall
21 begin on the first day of the month following the month
22 in which the individual so enrolls.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a)(1) shall apply to months beginning with

1 January 2007 and the amendments made by subsection
2 (a)(2) shall take effect on January 1, 2007.

3 **SEC. 6115. DELIVERY OF SERVICES AT FEDERALLY QUALI-**
4 **FIED HEALTH CENTERS.**

5 (a) COVERAGE.—

6 (1) IN GENERAL.—Section 1861(aa)(3) (42
7 U.S.C. 1395x(aa)(3)) is amended—

8 (A) in subparagraph (A), by striking “,
9 and” and inserting “and services described in
10 subsections (qq) and (vv); and”;

11 (B) in subparagraph (B), by striking “sec-
12 tions 329, 330, and 340” and inserting “section
13 330”; and

14 (C) in the flush matter at the end, by in-
15 sserting “by the center or by a health care pro-
16 fessional under contract with the center” after
17 “outpatient of a Federally qualified health cen-
18 ter”.

19 (2) CONSOLIDATED BILLING.—The first sen-
20 tence of section 1842(b)(6)(F) (42 U.S.C.
21 1395u(b)(6)(F)) is amended—

22 (A) by striking “and (G)” and inserting
23 “(G)”; and

24 (B) by inserting before the period at the
25 end the following: “, and (H) in the case of

1 services described in section 1861(aa)(3) that
 2 are furnished by a health care professional
 3 under contract with a Federally qualified health
 4 center, payment shall be made to the center”.

5 (b) TECHNICAL CORRECTIONS.—Clauses (i) and
 6 (ii)(II) of section 1861(aa)(4)(A) (42 U.S.C.
 7 1395x(aa)(4)(A)) are each amended by striking “(other
 8 than subsection (h))”.

9 (c) EFFECTIVE DATES.—The amendments made by
 10 this section shall apply to services furnished on or after
 11 January 1, 2006.

12 **SEC. 6116. TECHNICAL CORRECTION REGARDING PUR-**
 13 **CHASE AGREEMENTS FOR POWER-DRIVEN**
 14 **WHEELCHAIRS.**

15 (a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C.
 16 1395m(a)(7)(A)), as amended by section 6109 of this Act,
 17 is amended—

18 (1) in clause (i)(I), by striking “Payment” and
 19 inserting “Except as provided in clause (iii), pay-
 20 ment”; and

21 (2) by adding at the end the following new
 22 clause:

23 “(iii) PURCHASE AGREEMENT OPTION
 24 FOR POWER-DRIVEN WHEELCHAIRS.—

1 “(I) IN GENERAL.—In the case
2 of a power-driven wheelchair, at the
3 time the supplier furnishes the item,
4 the supplier shall offer the individual
5 the option to purchase the item, and
6 payment for such item shall be made
7 on a lump-sum basis if the individual
8 exercises such option.

9 “(II) MAINTENANCE AND SERV-
10 ICING.—In the case of a power-driven
11 wheelchair for which a purchase
12 agreement has been entered into
13 under subclause (I), maintenance and
14 servicing payments shall, if the Sec-
15 retary determines such payments are
16 reasonable and necessary, be made
17 (for parts and labor not covered by
18 the supplier’s or manufacturer’s war-
19 ranty, as determined by the Secretary
20 to be appropriate), and such payments
21 shall be in an amount determined to
22 be appropriate by the Secretary.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply to items furnished on or after
25 October 1, 2006.

1 **SEC. 6117. MEDICARE COVERAGE OF ULTRASOUND**
2 **SCREENING FOR ABDOMINAL AORTIC ANEU-**
3 **RYSMS; NATIONAL EDUCATIONAL AND IN-**
4 **FORMATION CAMPAIGN.**

5 (a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x)
6 is amended—

7 (1) in subsection (s)(2)—

8 (A) by striking “and” at the end of sub-
9 paragraph (Y);

10 (B) by adding “and” at the end of sub-
11 paragraph (Z); and

12 (C) by adding at the end the following new
13 subparagraph:

14 “(AA) ultrasound screening for abdominal aor-
15 tic aneurysm (as defined in subsection (bbb)) for an
16 individual—

17 “(i) who receives a referral for such an
18 ultrasound screening as a result of an initial
19 preventive physical examination (as defined in
20 section 1861(ww)(1));

21 “(ii) who has not been previously furnished
22 such an ultrasound screening under this title;
23 and

24 “(iii) who—

25 “(I) has a family history of abdominal
26 aortic aneurysm; or

1 “(II) manifests risk factors included
2 in a beneficiary category (not including
3 categories related to age) recommended for
4 screening by the United States Preventive
5 Services Task Force regarding abdominal
6 aortic aneurysms;” and

7 (2) by adding at the end the following new sub-
8 section:

9 “Ultrasound Screening for Abdominal Aortic Aneurysm

10 “(bbb) The term ‘ultrasound screening for abdominal
11 aortic aneurysm’ means—

12 “(1) a procedure using sound waves (or such
13 other procedures using alternative technologies, of
14 commensurate accuracy and cost, that the Secretary
15 may specify) provided for the early detection of ab-
16 dominal aortic aneurysm; and

17 “(2) includes a physician’s interpretation of the
18 results of the procedure.”.

19 (b) INCLUSION OF ULTRASOUND SCREENING FOR
20 ABDOMINAL AORTIC ANEURYSM IN SCREENING SERVICES
21 FOR WHICH EDUCATION, COUNSELING, AND REFERRAL
22 IS PROVIDED FOR UNDER BENEFITS FOR INITIAL PRE-
23 VENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2)
24 (42 U.S.C. 1395x(ww)(2)) is amended by adding at the
25 end the following new subparagraph:

1 “(L) Ultrasound screening for abdominal aortic
2 aneurysm as defined in section 1861(bbb).”.

3 (c) PAYMENT FOR ULTRASOUND SCREENING FOR
4 ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) (42
5 U.S.C. 1395w-4(j)(3)) is amended by inserting
6 “(2)(AA),” after “(2)(W),”.

7 (d) FREQUENCY AND QUALITY STANDARDS.—Sec-
8 tion 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

9 (1) by striking “and” at the end of subpara-
10 graph (L);

11 (2) by striking the semicolon at the end of sub-
12 paragraph (M) and inserting “, and”; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(N) in the case of ultrasound screening for ab-
16 dominal aortic aneurysm—

17 “(i) which is performed more frequently
18 than is provided for under section
19 1861(s)(2)(AA); or

20 “(ii) which is performed by an individual
21 or diagnostic laboratory that does not meet
22 quality assurance standards that the Secretary,
23 in consultation with national medical, vascular
24 technologist and sonographer societies, shall es-
25 tablish, including with respect to individuals

1 performing ultrasound screening for abdominal
2 aortic aneurysm (other than physicians) and di-
3 agnostic laboratories, that the individual or lab-
4 oratory is certified by the appropriate State li-
5 censing or certification agency or, in the case of
6 a service performed in a State that does not li-
7 cense or certify such individuals or laboratories,
8 by a national certification or accreditation orga-
9 nization recognized by the Secretary;”.

10 (e) NON-APPLICATION OF PART B DEDUCTIBLE.—

11 Section 1833(b) (42 U.S.C. 1395l(b)) is amended in the
12 first sentence—

13 (1) by striking “and (6)” and inserting “(6)”;

14 and

15 (2) by inserting “, and (7) such deductible shall
16 not apply with respect to ultrasound screening for
17 abdominal aortic aneurysm (as defined in section
18 1861(bbb))” before the period at the end.

19 (f) NATIONAL EDUCATIONAL AND INFORMATION
20 CAMPAIGN.—

21 (1) IN GENERAL.—After consultation with na-
22 tional medical, vascular technologist, and
23 sonographer societies, the Secretary of Health and
24 Human Services shall carry out a national education
25 and information campaign to promote awareness

1 among health care practitioners and the general
2 public with respect to the importance of early detec-
3 tion and treatment of abdominal aortic aneurysms.

4 (2) USE OF FUNDS.—The Secretary may use
5 amounts appropriated pursuant to this subsection to
6 make grants to national medical, vascular tech-
7 nologist, and sonographer societies (in accordance
8 with procedures and criteria specified by the Sec-
9 retary) to enable them to educate practitioners and
10 providers about matters relating to such aneurysms.

11 (3) AUTHORIZATION OF APPROPRIATIONS.—
12 There is authorized to be appropriated for fiscal
13 year 2006 and each fiscal year thereafter such sums
14 as may be necessary to carry out this subsection.

15 (g) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to ultrasound screenings for ab-
17 dominal aortic aneurysm performed on or after January
18 1, 2007.

19 **SEC. 6118. IMPROVING PATIENT ACCESS TO, AND UTILIZA-**
20 **TION OF, COLORECTAL CANCER SCREENING**
21 **UNDER MEDICARE.**

22 (a) INCREASE IN PART B REIMBURSEMENT FOR
23 COLORECTAL CANCER SCREENING AND DIAGNOSTIC
24 TESTS.—

1 (1) IN GENERAL.—Section 1834(d) (42 U.S.C.
2 1395m(d)) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(4) ENHANCED PART B PAYMENT FOR
5 COLORECTAL CANCER SCREENING AND DIAGNOSTIC
6 TESTS.—

7 “(A) NONFACILITY RATES.—Notwith-
8 standing paragraphs (2)(A) and (3)(A), the
9 Secretary shall establish national minimum pay-
10 ment amounts for CPT codes 45378, 45380,
11 and 45385, and HCPCS codes G0105 and
12 GO121 for items and services furnished on or
13 after January 1, 2007, which reflect a 5-per-
14 cent increase above the relative value units in
15 effect as the nonfacility rates for such codes on
16 December 31, 2006, with such revised payment
17 level to apply to items and services performed
18 in a nonfacility setting.

19 “(B) FACILITY RATES.—Notwithstanding
20 paragraphs (2)(A) and (3)(A), the Secretary
21 shall establish national minimum payment
22 amounts for CPT codes 45378, 45380, and
23 45385, and HCPCS codes G0105 and GO121
24 for items and services furnished on or after
25 January 1, 2007, which reflect a 5-percent in-

1 crease above the relative value units in effect as
2 the facility rates for such codes on December
3 31, 2006, with such revised payment level to
4 apply to items and services performed in a facil-
5 ity setting.

6 “(C) ANNUAL ADJUSTMENTS.—In the case
7 of items and services furnished on or after Jan-
8 uary 1, 2007, the payment rates described in
9 subparagraphs (A) and (B) shall, subject to the
10 minimum payment amounts established in such
11 subparagraphs, be adjusted annually as pro-
12 vided in section 1848.”.

13 (2) NO EFFECT ON HOPD PAYMENTS.—The
14 Secretary shall not take into account the provisions
15 of section 1834(d)(4) of the Social Security Act, as
16 added by subsection (a), in determining the amount
17 of payment for any covered OPD service under the
18 prospective payment system for hospitals outpatient
19 department services under section 1833(t) of such
20 Act (42 U.S.C. 1395l(t)).

21 (b) MEDICARE COVERAGE OF OFFICE VISIT OR CON-
22 SULTATION PRIOR TO A SCREENING COLONOSCOPY OR IN
23 CONJUNCTION WITH A BENEFICIARY’S DECISION TO OB-
24 TAIN SUCH A SCREENING.—

1 (1) COVERAGE.—Section 1861(s)(2) (42 U.S.C.
2 1395x(s)(2)), as amended by section 6117, is
3 amended—

4 (A) in subparagraph (Z), by striking
5 “and” at the end;

6 (B) in subparagraph (AA), by inserting
7 “and” at the end; and

8 (C) by adding at the end the following new
9 subparagraph:

10 “(BB) an outpatient office visit or con-
11 sultation for the purpose of beneficiary edu-
12 cation, assuring selection of the proper screen-
13 ing test, and securing information relating to
14 the procedure and sedation of the beneficiary,
15 prior to a colorectal cancer screening test con-
16 sisting of a screening colonoscopy or in conjunc-
17 tion with the beneficiary’s decision to obtain
18 such a screening, regardless of whether such
19 screening is medically indicated with respect to
20 the beneficiary;”.

21 (2) PAYMENT.—

22 (A) IN GENERAL.—Section 1833(a)(1) (42
23 U.S.C. 1395l(a)(1)) is amended—

24 (i) by striking “and” before “(V)”;

25 and

1 (ii) by inserting before the semicolon
2 at the end the following: “, and (W) with
3 respect to an outpatient office visit or con-
4 sultation under section 1861(s)(2)(BB),
5 the amounts paid shall be 80 percent of
6 the lesser of the actual charge or the
7 amount established under section 1848”.

8 (B) PAYMENT UNDER PHYSICIAN FEE
9 SCHEDULE.—Section 1848(j)(3) (42 U.S.C.
10 1395w-4(j)(3)), as amended by section 6117, is
11 amended by inserting “(2)(BB),” after
12 “(2)(AA),”.

13 (C) REQUIREMENT FOR ESTABLISHMENT
14 OF PAYMENT AMOUNT UNDER PHYSICIAN FEE
15 SCHEDULE.—Section 1834(d) (42 U.S.C.
16 1395m(d)), as amended by subsection (a), is
17 amended by adding at the end the following
18 new paragraph:

19 “(5) PAYMENT FOR OUTPATIENT OFFICE VISIT
20 OR CONSULTATION PRIOR TO SCREENING
21 COLONOSCOPY.—With respect to an outpatient office
22 visit or consultation under section 1861(s)(2)(BB),
23 payment under section 1848 shall be consistent with
24 the payment amounts for CPT codes 99203 and
25 99243.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to items and services
3 provided on or after January 1, 2007.

4 (c) WAIVER OF DEDUCTIBLE FOR COLORECTAL CAN-
5 CER SCREENING TESTS.—

6 (1) IN GENERAL.—Section 1833(b) (42 U.S.C.
7 1395l(b)), as amended by section 6117, is amended
8 in the first sentence—

9 (A) by striking “and” before “(7)”; and

10 (B) by inserting before the period at the
11 end the following: “, and (8) such deductible
12 shall not apply with respect to colorectal cancer
13 screening tests (as described in section
14 1861(pp)(1))”.

15 (2) CONFORMING AMENDMENTS.—Paragraphs
16 (2)(C)(ii) and (3)(C)(ii) of section 1834(d) (42
17 U.S.C. 1395m(d)) are each amended—

18 (A) by striking “DEDUCTIBLE AND” in the
19 heading; and

20 (B) in subclause (I), by striking “deduct-
21 ible or” each place it appears.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to items and services
24 furnished on or after January 1, 2007.

1 **SEC. 6119. COVERAGE OF MARRIAGE AND FAMILY THERA-**
 2 **PIST SERVICES AND MENTAL HEALTH COUN-**
 3 **SELOR SERVICES UNDER PART B OF THE**
 4 **MEDICARE PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) (42
 7 U.S.C. 1395x(s)(2)), as amended by section
 8 6118(b), is amended—

9 (A) in subparagraph (AA), by striking
 10 “and” after the semicolon at the end;

11 (B) in subparagraph (BB), by inserting
 12 “and” after the semicolon at the end; and

13 (C) by adding at the end the following new
 14 subparagraph:

15 “(CC) marriage and family therapist services
 16 (as defined in subsection (ccc)(1)) and mental health
 17 counselor services (as defined in subsection
 18 (ccc)(3));”.

19 (2) DEFINITIONS.—Section 1861 (42 U.S.C.
 20 1395x), as amended by section 6117, is amended by
 21 adding at the end the following new subsection:

22 “Marriage and Family Therapist Services; Marriage and
 23 Family Therapist; Mental Health Counselor Serv-
 24 ices; Mental Health Counselor

25 “(ccc)(1) The term ‘marriage and family therapist
 26 services’ means services performed by a marriage and

1 family therapist (as defined in paragraph (2)) for the diag-
2 nosis and treatment of mental illnesses, which the mar-
3 riage and family therapist is legally authorized to perform
4 under State law (or the State regulatory mechanism pro-
5 vided by State law) of the State in which such services
6 are performed, as would otherwise be covered if furnished
7 by a physician or as an incident to a physician's profes-
8 sional service, but only if no facility or other provider
9 charges or is paid any amounts with respect to the fur-
10 nishing of such services.

11 “(2) The term ‘marriage and family therapist’ means
12 an individual who—

13 “(A) possesses a master’s or doctoral degree
14 which qualifies for licensure or certification as a
15 marriage and family therapist pursuant to State
16 law;

17 “(B) after obtaining such degree has performed
18 at least 2 years of clinical supervised experience in
19 marriage and family therapy; and

20 “(C) in the case of an individual performing
21 services in a State that provides for licensure or cer-
22 tification of marriage and family therapists, is li-
23 censed or certified as a marriage and family thera-
24 pist in such State.

1 “(3) The term ‘mental health counselor services’
2 means services performed by a mental health counselor (as
3 defined in paragraph (4)) for the diagnosis and treatment
4 of mental illnesses which the mental health counselor is
5 legally authorized to perform under State law (or the
6 State regulatory mechanism provided by the State law) of
7 the State in which such services are performed, as would
8 otherwise be covered if furnished by a physician or as inci-
9 dent to a physician’s professional service, but only if no
10 facility or other provider charges or is paid any amounts
11 with respect to the furnishing of such services.

12 “(4) The term ‘mental health counselor’ means an
13 individual who—

14 “(A) possesses a master’s or doctor’s degree in
15 mental health counseling or a related field;

16 “(B) after obtaining such a degree has per-
17 formed at least 2 years of supervised mental health
18 counselor practice; and

19 “(C) in the case of an individual performing
20 services in a State that provides for licensure or cer-
21 tification of mental health counselors or professional
22 counselors, is licensed or certified as a mental health
23 counselor or professional counselor in such State.”.

24 (3) PROVISION FOR PAYMENT UNDER PART
25 B.—Section 1832(a)(2)(B) (42 U.S.C.

1 1395k(a)(2)(B)) is amended by adding at the end
 2 the following new clause:

3 “(v) marriage and family therapist
 4 services and mental health counselor serv-
 5 ices;”.

6 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)
 7 (42 U.S.C. 1395l(a)(1)), as amended by section
 8 6118, is amended—

9 (A) by striking “and (W)” and inserting
 10 “(W)”; and

11 (B) by inserting before the semicolon at
 12 the end the following: “, and (X) with respect
 13 to marriage and family therapist services and
 14 mental health counselor services under section
 15 1861(s)(2)(CC), the amounts paid shall be 80
 16 percent of the lesser of the actual charge for
 17 the services or 75 percent of the amount deter-
 18 mined for payment of a psychologist under sub-
 19 paragraph (L)”.

20 (5) EXCLUSION OF MARRIAGE AND FAMILY
 21 THERAPIST SERVICES AND MENTAL HEALTH COUN-
 22 SELOR SERVICES FROM SKILLED NURSING FACILITY
 23 PROSPECTIVE PAYMENT SYSTEM.—Section
 24 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)) is
 25 amended by inserting “marriage and family thera-

1 pist services (as defined in section 1861(ccc)(1)),
2 mental health counselor services (as defined in sec-
3 tion 1861(ccc)(3)),” after “qualified psychologist
4 services,”.

5 (6) INCLUSION OF MARRIAGE AND FAMILY
6 THERAPISTS AND MENTAL HEALTH COUNSELORS AS
7 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-
8 tion 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is
9 amended by adding at the end the following new
10 clauses:

11 “(vii) A marriage and family therapist (as de-
12 fined in section 1861(ccc)(2)).

13 “(viii) A mental health counselor (as defined in
14 section 1861(ccc)(4)).”.

15 (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-
16 ICES PROVIDED IN CERTAIN SETTINGS.—

17 (1) RURAL HEALTH CLINICS AND FEDERALLY
18 QUALIFIED HEALTH CENTERS.—Section
19 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is
20 amended by striking “or by a clinical social worker
21 (as defined in subsection (hh)(1)),” and inserting “,
22 by a clinical social worker (as defined in subsection
23 (hh)(1)), by a marriage and family therapist (as de-
24 fined in subsection (ccc)(2)), or by a mental health
25 counselor (as defined in subsection (ccc)(4)),”.

1 (2) HOSPICE PROGRAMS.—Section
 2 1861(dd)(2)(B)(i)(III) (42 U.S.C.
 3 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or
 4 one marriage and family therapist (as defined in
 5 subsection (bbb)(2))” after “social worker”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply with respect to services furnished
 8 on or after January 1, 2007.

9 **SEC. 6120. QUALITY MEASUREMENT SYSTEMS AMEND-**
 10 **MENTS.**

11 Section 1860E–1 , as added by section 6110(a)(2),
 12 is amended—

13 (1) in subsection (b)(1)—

14 (A) in subparagraph (B)—

15 (i) in clause (vi), by striking “and” at
 16 the end;

17 (ii) in clause (vii), by striking the pe-
 18 riod at the end and inserting “; and”; and

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

21 “(viii) measures that address condi-
 22 tions where there is the greatest disparity
 23 of health care provided and health out-
 24 comes between majority and minority
 25 groups.”; and

1 (B) in subparagraph (E)—

2 (i) in clause (v), by striking “and” at
3 the end;

4 (ii) by redesignating clause (vi) as
5 clause (vii); and

6 (iii) by inserting after clause (v) the
7 following new clause:

8 “(vi) allows quality measures that are
9 reported to be stratified according to pa-
10 tient group characteristics, and”;

11 (2) in subsection (c)(4)—

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

14 (B) in subparagraph (C), by striking the
15 period at the end and inserting “; and”; and

16 (C) by adding at the end the following new
17 subparagraph:

18 “(D) The report commissioned by Con-
19 gress from the Institute of Medicine of the Na-
20 tional Academy of Sciences, titled ‘Unequal
21 Treatment: Confronting Racial and Ethnic Dis-
22 parities in Health Care.’”; and

23 (3) in subsection (d)(2), by inserting “experts
24 in minority health,” after “government agencies,”.

1 **TITLE VII—COMMITTEE ON**
2 **HEALTH, EDUCATION, LABOR,**
3 **AND PENSIONS**

4 **Subtitle A—Education Provisions**

5 **CHAPTER 1—EDUCATION**

6 **SEC. 7101. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

7 (a) AMENDMENT.—Subpart 1 of part A of title IV
8 of the Higher Education Act of 1965 (20 U.S.C. 1070a)
9 is amended by adding at the end the following:

10 **“SEC. 401A. PROVISIONAL GRANT ASSISTANCE PROGRAM.**

11 “(a) GRANTS.—

12 “(1) IN GENERAL.—From amounts appro-
13 priated under subsection (e) for a fiscal year and
14 subject to subsection (b), the Secretary shall award
15 grants to students (which shall be known as
16 ‘ProGAP awards’) in the same manner as the Sec-
17 retary awards grants to students under section 401,
18 except that—

19 “(A) at the beginning of each award year,
20 the Secretary shall establish a maximum and
21 minimum award level based on amounts made
22 available under subsection (e);

23 “(B) the Secretary shall only award grants
24 under this section to students eligible for a

1 grant under section 401 for the award year;
2 and

3 “(C) when determining eligibility for the
4 awards, the Secretary shall consider only those
5 students who are eligible for a grant under sec-
6 tion 401, as of June 30 of the award year for
7 which the determination is made.

8 “(D) the Secretary—

9 “(i) shall determine if an increase in
10 the amount of a grant under this section
11 is needed to help encourage students to
12 pursue courses of study that are important
13 to the current and future national, home-
14 land, and economic security needs of the
15 United States; and

16 “(ii) after making the determination
17 described in clause (i), may increase the
18 maximum and minimum award level estab-
19 lished under subparagraph (A) by not
20 more than 25 percent, for students eligible
21 for a grant under this section who are pur-
22 suing a degree with a major in mathe-
23 matics, science, technology, engineering, or
24 a foreign language that is critical to the
25 national security of the United States; and

1 “(E) not later than September 30 of each
2 fiscal year, the Secretary shall notify Congress,
3 in writing, of the Secretary’s determination
4 with respect to subparagraph (D)(i) and of any
5 increase in award levels under subparagraph
6 (D)(ii).

7 “(2) STUDENTS WITH THE GREATEST NEED.—
8 The Secretary shall ensure grants are awarded
9 under this section to students with the greatest need
10 as determined in accordance with section 471.

11 “(b) COST OF ATTENDANCE LIMITATION.—A grant
12 awarded under this section for an award year shall be
13 awarded in an amount that does not exceed—

14 “(1) the student’s cost of attendance for the
15 award year; less

16 “(2) an amount equal to the expected family
17 contribution for that student for the award year.

18 “(c) SUPPLEMENT NOT SUPPLANT.—Grants award-
19 ed from funds made available under subsection (e) shall
20 be used to supplement, and not supplant, other Federal,
21 State, or institutional grant funds.

22 “(d) USE OF EXCESS FUNDS.—

23 “(1) 15 PERCENT OR LESS.—If, at the end of
24 a fiscal year, the funds available for making grant
25 payments under this section exceed the amount nec-

1 essary to make the grant payments required under
 2 this section to eligible students by 15 percent or less,
 3 then all of the excess funds shall remain available
 4 for making grant payments under this section dur-
 5 ing the next succeeding fiscal year.

6 “(2) MORE THAN 15 PERCENT.—If, at the end
 7 of a fiscal year, the funds available for making grant
 8 payments under this section exceed the amount nec-
 9 essary to make the grant payments required under
 10 this section to eligible students by more than 15 per-
 11 cent, then all of such funds shall remain available
 12 for making such grant payments but grant payments
 13 may be made under this paragraph only with respect
 14 to awards for that fiscal year.”.

15 “(e) AUTHORIZATION AND APPROPRIATION OF
 16 FUNDS.—There are authorized to be appropriated, and
 17 there are appropriated, out of any money in the Treasury
 18 not otherwise appropriated, for the Department of Edu-
 19 cation to carry out this section and section 401B—

20 “(1) \$1,897,000,000 for fiscal year 2006;

21 “(2) \$1,901,000,000 for fiscal year 2007;

22 “(3) \$1,899,000,000 for fiscal year 2008;

23 “(4) \$1,898,000,000 for fiscal year 2009; and

24 “(5) \$1,897,000,000 for fiscal year 2010.

1 “(f) SUNSET PROVISION.—This section shall be effective with respect to amounts appropriated for fiscal year 2006 and each of the 4 succeeding fiscal years.”.

4 (b) SENSE OF THE SENATE.—It is the sense of the Senate that the amounts appropriated to carry out sections 401A and 401B of the Higher Education Act of 1965 are the result of the savings generated by the amendments made by this chapter.

9 **SEC. 7102. NATIONAL SMART GRANTS.**

10 Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is further amended by adding after section 401A (as added by section 7101):

13 **“SEC. 401B. NATIONAL SMART GRANTS.**

14 “(a) FINDINGS.—Congress makes the following findings:

16 “(1) If the United States is to remain a world leader in the global economy, its college students must have the training they need to compete for the best jobs of the 21st century.

20 (2) The United States intelligence community faces major shortages in foreign languages critical to national security, and will also require major incentives to fill projected workforce needs.

24 “(3) Increasingly, the best jobs of the 21st century will require baccalaureate degrees in the

1 sciences, mathematics, technology, engineering, and
2 foreign languages critical to national security, or be
3 generated by people who have such degrees.

4 “(4) Congress should establish a National
5 Science and Mathematics Access to Retain Talent
6 (SMART) grant program to meet the goals de-
7 scribed in paragraphs (1) through (3).

8 “(b) PURPOSE.—The purpose of this section is to in-
9 crease the number of postsecondary students from low-in-
10 come backgrounds who are enrolled in studies leading to
11 baccalaureate degrees in physical, life, or computer
12 sciences, mathematics, technology, engineering, and for-
13 eign languages critical to national security.

14 “(c) GRANTS AUTHORIZED.—From amounts appro-
15 priated under section 401A(c) for a fiscal year, the Sec-
16 retary shall award grants to eligible students to assist the
17 eligible students in paying their college education ex-
18 penses.

19 “(d) DESIGNATION.—A grant under this section shall
20 be known as a ‘National Science and Mathematics Access
21 to Retain Talent Grant’ or a ‘National SMART Grant’.

22 “(e) DEFINITION OF ELIGIBLE STUDENT.—In this
23 section the term ‘eligible student’ means a student who,
24 for the academic year for which the determination is
25 made—

1 “(1) is eligible for a Federal Pell Grant; and

2 “(2) is in the student’s 3rd or 4th year at an
3 institution of higher education majoring in—

4 “(A) mathematics, science, technology, or
5 engineering (as determined by the Secretary
6 pursuant to regulations); or

7 “(B) a foreign language that the Sec-
8 retary, in consultation with the Director of Na-
9 tional Intelligence, determines is critical to the
10 national security of the United States.

11 “(f) GRANT AMOUNT.—The Secretary shall award a
12 grant under this section in an amount that does not exceed
13 \$1,500 for an academic year.

14 “(g) FUNDING RULE.—The Secretary shall use not
15 more than \$450,000,000 of the funds appropriated under
16 section 401A(c) for each of the fiscal years 2006 through
17 2010 to carry out this section.

18 “(h) UNOBLIGATED FUNDS AVAILABLE FOR FED-
19 ERAL GRANT ASSISTANCE.—The Secretary shall make
20 any funds made available under subsection (g) for a fiscal
21 year that remain unobligated at the end of the fiscal year
22 available to carry out section 401A.

23 “(i) MATCHING ASSISTANCE.—An institution of
24 higher education may, from funds provided from private
25 sources, provide additional assistance to a student receiv-

1 ing a grant under this section, except that the total assist-
 2 ance provided under this title to a student shall not exceed
 3 the student's cost of attendance.”.

4 **SEC. 7103. LOAN LIMITS.**

5 (a) FEDERAL INSURANCE LIMITS.—Section
 6 425(a)(1)(A) of the Higher Education Act of 1965 (20
 7 U.S.C. 1075(a)(1)(A)) is amended—

8 (1) in clause (i)(I), by striking “\$2,625” and
 9 inserting “\$3,500”; and

10 (2) in clause (ii)(I), by striking “\$3,500” and
 11 inserting “\$4,500”.

12 (b) GUARANTEE LIMITS.—Section 428(b)(1)(A) of
 13 the Higher Education Act of 1965 (20 U.S.C.
 14 1078(b)(1)(A)) is amended—

15 (1) in clause (i)(I), by striking “\$2,625” and
 16 inserting “\$3,500”; and

17 (2) in clause (ii)(I), by striking “\$3,500” and
 18 inserting “\$4,500”.

19 (c) FEDERAL PLUS LOANS.—Section 428B of the
 20 Higher Education Act of 1965 (20 U.S.C. 1078–2) is
 21 amended—

22 (1) in subsection (a)(1)—

23 (A) in the matter preceding subparagraph

24 (A), by striking “Parents” and inserting “A

1 graduate or professional student or the par-
 2 ents”;

3 (B) in subparagraph (A), by striking “the
 4 parents” and inserting “the graduate or profes-
 5 sional student or the parents”; and

6 (C) in subparagraph (B), by striking “the
 7 parents” and inserting “the graduate or profes-
 8 sional student or the parents”;

9 (2) in subsection (b), by striking “any parent”
 10 and inserting “any graduate or professional student
 11 or any parent”;

12 (3) in subsection (c)(2), by striking “parent”
 13 and inserting “graduate or professional student or
 14 parent”; and

15 (4) in subsection (d)(1), by striking “the par-
 16 ent” and inserting “the graduate or professional stu-
 17 dent or the parent”.

18 (d) UNSUBSIDIZED STAFFORD LOANS FOR GRAD-
 19 UATE OR PROFESSIONAL STUDENTS.—Section
 20 428H(d)(2) of the Higher Education Act of 1965 (20
 21 U.S.C. 1078–8(d)(2)) is amended—

22 (1) in subparagraph (C), by striking “\$10,000”
 23 and inserting “\$12,000”; and

24 (2) in subparagraph (D)—

1 (A) in clause (i), by striking “\$5,000” and
 2 inserting “\$7,000”; and

3 (B) in clause (ii), by striking “\$5,000”
 4 and inserting “\$7,000”.

5 **SEC. 7104. PLUS LOAN INTEREST RATES AND ZERO SPE-**
 6 **CIAL ALLOWANCE PAYMENT.**

7 (a) PLUS LOANS.—Section 427A(l)(2) of the Higher
 8 Education Act of 1965 (20 U.S.C. 1077a(l)(2)) is amend-
 9 ed by striking “7.9 percent” and inserting “8.5 percent”.

10 (b) CONFORMING AMENDMENTS FOR SPECIAL AL-
 11 LOWANCES.—

12 (1) AMENDMENTS.—Subparagraph (I) of sec-
 13 tion 438(b)(2) of the Higher Education Act of 1965
 14 (20 U.S.C. 1087–1(b)(2)) is amended—

15 (A) in clause (iv), by striking “, subject to
 16 clause (vi) of this subparagraph”;

17 (B) in clause (v), by striking “July 1,
 18 2006” each place it appears and inserting
 19 “April 1, 2006”; and

20 (C) by striking clauses (vi) and (vii) and
 21 inserting the following:

22 “(vi) RECAPTURE OF EXCESS INTER-
 23 EST.—

24 “(I) EXCESS CREDITED.—With
 25 respect to a loan on which the applica-

1 ble interest rate is determined under
2 subsection (k) or (l) of section 427A
3 and for which the first disbursement
4 of principal is made on or after April
5 1, 2006, if the applicable interest rate
6 for any 3-month period exceeds the
7 special allowance support level appli-
8 cable to such loan under this subpara-
9 graph for such period, then an adjust-
10 ment shall be made by calculating the
11 excess interest in the amount com-
12 puted under subclause (II) of this
13 clause, and by crediting the excess in-
14 terest to the Government not less
15 often than annually.

16 “(II) CALCULATION OF EX-
17 CESS.—The amount of any adjust-
18 ment of interest on a loan to be made
19 under this subsection for any quarter
20 shall be equal to—

21 “(aa) the applicable interest
22 rate minus the special allowance
23 support level determined under
24 this subparagraph; multiplied by

1 “(bb) the average daily prin-
2 cipal balance of the loan (not in-
3 cluding unearned interest added
4 to principal) during such cal-
5 endar quarter; divided by

6 “(cc) four.

7 “(III) SPECIAL ALLOWANCE SUP-
8 PORT LEVEL.—For purposes of this
9 clause, the term ‘special allowance
10 support level’ means, for any loan, a
11 number expressed as a percentage
12 equal to the sum of the rates deter-
13 mined under subclauses (I) and (III)
14 of clause (i), and applying any substi-
15 tution rules applicable to such loan
16 under clauses (ii), (iii), and (iv) in de-
17 termining such sum.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by this subsection shall not apply with respect to
20 any special allowance payment made under section
21 438 of the Higher Education Act of 1965 (20 U.S.C
22 1087–1) before April 1, 2006.

1 **SEC. 7105. REDUCTION OF LENDER INSURANCE REIM-**
2 **BURSEMENT RATES.**

3 (a) AMENDMENT.—Subparagraph (G) of section
4 428(b)(1) of the Higher Education Act of 1965 (20
5 U.S.C. 1078(b)(1)) is amended to read as follows:

6 “(G) insures 97 percent of the unpaid
7 principal of loans insured under the program;”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply with respect to any loan made,
10 insured, or guaranteed under part B of title IV of the
11 Higher Education Act of 1965 (20 U.S.C. 1071 et seq.)
12 for which the first disbursement is made on or after Janu-
13 ary 1, 2006.

14 **SEC. 7106. GUARANTY AGENCY ORIGINATION FEE.**

15 (a) AMENDMENT.—Section 428(b)(1)(H) of the
16 Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H))
17 is amended to read as follows:

18 “(H) provides for the collection, and the
19 deposit in the Federal Fund established under
20 section 422A(a), of a guaranty agency origina-
21 tion fee of 1.0 percent of each disbursement of
22 the proceeds of the loan, which fee may be pro-
23 vided from funds in the guaranty agency’s oper-
24 ating fund under section 422B or from other
25 non-Federal funds;”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall be effective with respect to any loan
3 disbursed under part B of title IV of the Higher Edu-
4 cation Act of 1965 on or after April 1, 2006.

5 **SEC. 7107. DEFERMENT OF STUDENT LOANS FOR MILITARY**
6 **SERVICE.**

7 (a) FEDERAL FAMILY EDUCATION LOANS.—Section
8 428(b)(1)(M) of the Higher Education Act of 1965 (20
9 U.S.C. 1078(b)(1)(M)) is amended—

10 (1) by striking “or” at the end of clause (ii);

11 (2) by redesignating clause (iii) as clause (iv);

12 and

13 (3) by inserting after clause (ii) the following
14 new clause:

15 “(iii) not in excess of 3 years during
16 which the borrower—

17 “(I) is serving on active duty
18 during a war or other military oper-
19 ation or national emergency; or

20 “(II) is performing qualifying
21 National Guard duty during a war or
22 other military operation or national
23 emergency; or”.

1 (b) DIRECT LOANS.—Section 455(f)(2) of the Higher
2 Education Act of 1965 (20 U.S.C. 1087e(f)(2)) is
3 amended—

4 (1) by redesignating subparagraph (C) as sub-
5 paragraph (D); and

6 (2) by inserting after subparagraph (B) the fol-
7 lowing new subparagraph:

8 “(C) not in excess of 3 years during which
9 the borrower—

10 “(i) is serving on active duty during a
11 war or other military operation or national
12 emergency; or

13 “(ii) is performing qualifying National
14 Guard duty during a war or other military
15 operation or national emergency; or”.

16 (c) PERKINS LOANS.—Section 464(c)(2)(A) of the
17 Higher Education Act of 1965 (20 U.S.C.
18 1087dd(c)(2)(A)) is amended—

19 (1) by redesignating clauses (iii) and (iv) as
20 clauses (iv) and (v), respectively; and

21 (2) by inserting after clause (ii) the following
22 new clause:

23 “(iii) not in excess of 3 years during
24 which the borrower—

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;”.

8 (d) DEFINITIONS.—Section 481 of the Higher Edu-
9 cation Act of 1965 (20 U.S.C. 1088) is amended by add-
10 ing at the end the following new subsection:

11 “(d) DEFINITIONS FOR MILITARY DEFERMENTS.—
12 For purposes of parts B, D, and E of this title:

13 “(1) ACTIVE DUTY.—The term ‘active duty’ has
14 the meaning given such term in section 101(d)(1) of
15 title 10, United States Code, except that such term
16 does not include active duty for training or attend-
17 ance at a service school.

18 “(2) MILITARY OPERATION.—The term ‘mili-
19 tary operation’ means a contingency operation as
20 such term is defined in section 101(a)(13) of title
21 10, United States Code.

22 “(3) NATIONAL EMERGENCY.—The term ‘na-
23 tional emergency’ means the national emergency by
24 reason of certain terrorist attacks declared by the
25 President on September 14, 2001, or subsequent na-

1 tional emergencies declared by the President by rea-
2 son of terrorist attacks.

3 “(4) SERVING ON ACTIVE DUTY.—The term
4 ‘serving on active duty during a war or other mili-
5 tary operation or national emergency’ means service
6 by an individual who is—

7 “(A) a Reserve of an Armed Force ordered
8 to active duty under section 12301(a),
9 12301(g), 12302, 12304, or 12306 of title 10,
10 United States Code, or any retired member of
11 an Armed Force ordered to active duty under
12 section 688 of such title, for service in connec-
13 tion with a war or other military operation or
14 national emergency, regardless of the location
15 at which such active duty service is performed;
16 and

17 “(B) any other member of an Armed Force
18 on active duty in connection with such emer-
19 gency or subsequent actions or conditions who
20 has been assigned to a duty station at a loca-
21 tion other than the location at which such mem-
22 ber is normally assigned.

23 “(5) QUALIFYING NATIONAL GUARD DUTY.—
24 The term ‘qualifying National Guard duty during a
25 war or other military operation or national emer-

1 gency’ means service as a member of the National
2 Guard on full-time National Guard duty (as defined
3 in section 101(d)(5) of title 10, United States Code)
4 under a call to active service authorized by the
5 President or the Secretary of Defense for a period
6 of more than 30 consecutive days under section
7 502(f) of title 32, United States Code, in connection
8 with a war, other military operation, or a national
9 emergency declared by the President and supported
10 by Federal funds.”.

11 (e) **RULE OF CONSTRUCTION.**—Nothing in the
12 amendments made by this section shall be construed to
13 authorize any refunding of any repayment of a loan.

14 (f) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply with respect to loans for which the
16 first disbursement is made on or after July 1, 2001.

17 **SEC. 7108. RECOVERY THROUGH CONSOLIDATION.**

18 Section 428(c) of the Higher Education Act of 1965
19 (20 U.S.C 1078(c)) is amended—

20 (1) in paragraph (2)(A)—

21 (A) by inserting “(i)” after “including”;

22 and

23 (B) by inserting before the semicolon at
24 the end the following: “and (ii) requirements es-
25 tablishing procedures to preclude consolidation

1 lending from being an excessive proportion of
2 guaranty agency recoveries on defaulted loans
3 under this part”;

4 (2) in paragraph (2)(D), by striking “para-
5 graph (6)” and inserting “paragraph (6)(A)”;

6 (3) in paragraph (6)—

7 (A) by inserting “(A)” before “For the
8 purposes of paragraph (2)(D),”;

9 (B) by redesignating subparagraphs (A)
10 and (B) as clauses (i) and (ii), respectively; and

11 (C) by adding at the end the following new
12 subparagraphs:

13 “(B) GUARANTY AGENCY OBLIGATIONS.—A
14 guaranty agency shall—

15 “(i) on or after October 1, 2006—

16 “(I) not charge the borrower collec-
17 tion costs in an amount in excess of 18.5
18 percent of the outstanding principal and
19 interest of a defaulted loan that is paid off
20 through consolidation by the borrower
21 under this title; and

22 “(II) remit to the Secretary a portion
23 of the collection charge under subclause (I)
24 equal to 8.5 percent of the outstanding

1 principal and interest of such defaulted
2 loan; and

3 “(ii) on and after October 1, 2009, remit
4 to the Secretary the entire amount charged
5 under clause (i)(I) with respect to each de-
6 faulted loan that is paid off with excess consoli-
7 dation proceeds.

8 “(C) EXCESS CONSOLIDATION PRO-
9 CEEDS.—For purposes of subparagraph (B),
10 the term ‘excess consolidation proceeds’ means,
11 with respect to any guaranty agency for any
12 Federal fiscal year beginning on or after Octo-
13 ber 1, 2009, the proceeds of consolidation of de-
14 faulted loans under this title that exceed 45
15 percent of the agency’s total collections on de-
16 faulted loans in such Federal fiscal year.”.

17 **SEC. 7109. SINGLE HOLDER RULE.**

18 Subparagraph (A) of section 428C(b)(1) of the High-
19 er Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is
20 amended by striking “and (i)” and all that follows through
21 “so selected for consolidation”).

22 **SEC. 7110. DEFAULT REDUCTION PROGRAM.**

23 Section 428F(a)(1) of the Higher Education Act of
24 1965 (20 U.S.C. 1078–6(a)(1)) is amended—

1 (1) in subparagraph (A), by striking “consecu-
2 tive payments for 12 months” and inserting “9 pay-
3 ments made within 20 days of the due date during
4 10 consecutive months”;

5 (2) by redesignating subparagraph (C) as sub-
6 paragraph (D); and

7 (3) by inserting after subparagraph (B) the fol-
8 lowing new subparagraph:

9 “(C) A guaranty agency may charge the
10 borrower and retain collection costs in an
11 amount not to exceed 18.5 percent of the out-
12 standing principal and interest at the time of
13 sale of a loan rehabilitated under subparagraph
14 (A).”.

15 **SEC. 7111. REQUIREMENTS FOR DISBURSEMENTS OF STU-**
16 **DENT LOANS.**

17 Section 428G of the Higher Education Act of 1965
18 (20 U.S.C. 1078–7) is amended—

19 (1) in subsection (a)(3), by adding at the end
20 the following: “Notwithstanding section 422(d) of
21 the Higher Education Amendments of 1998, this
22 paragraph shall be effective beginning on the date of
23 enactment of the Higher Education Amendments of
24 2005.”; and

1 (2) in subsection (b)(1), by adding at the end
2 the following: “Notwithstanding section 422(d) of
3 the Higher Education Amendments of 1998, the sec-
4 ond sentence of this paragraph shall be effective be-
5 ginning on the date of enactment of the Higher
6 Education Amendments of 2005.”.

7 **SEC. 7112. SPECIAL INSURANCE AND REINSURANCE RULES.**

8 (a) REPEAL.—Section 428I of the Higher Education
9 Act of 1965 (20 U.S.C. 1078–9) is repealed.

10 (b) CONFORMING AMENDMENTS.—Part A of title IV
11 of the Higher Education Act of 1965 (20 U.S.C.1070 et
12 seq.) is amended—

13 (1) in section 428(c)(1)—

14 (A) by striking subparagraph (D); and

15 (B) by redesignating subparagraphs (E)
16 and (F) as subparagraphs (D) and (E), respec-
17 tively; and

18 (2) in section 438(b)(5), by striking the matter
19 following subparagraph (B).

20 **SEC. 7113. SCHOOL AS LENDER MORATORIUM.**

21 Section 435(d)(2) of the Higher Education Act of
22 1965 (20 U.S.C. 1085(d)(2)) is amended—

23 (1) in subparagraph (E), by striking “and”
24 after the semicolon; and

1 (2) by inserting before the matter following
2 subparagraph (F) (as amended by section 7390) the
3 following:

4 “(G) shall have met the requirements of
5 subparagraphs (A) through (F), and made
6 loans under this part, on or before August 31,
7 2005;

8 “(H) shall hold each loan the eligible insti-
9 tution makes under this part to a student en-
10 rolled at the eligible institution until the stu-
11 dent enters into a grace period described in sec-
12 tion 427(a)(2)(B) or 428(b)(7);

13 “(I) shall use the proceeds from the sale of
14 a loan made under this part, for need based
15 grant aid programs, except that such
16 proceeds—

17 “(i) shall not be used to provide a
18 grant to a student for an academic year in
19 an amount that is more than the student’s
20 cost of attendance for the academic year;
21 and

22 “(ii) shall supplement and not sup-
23 plant other Federal, State, and institu-
24 tional grant aid; and

1 “(J) shall not be a foundation or alumni
2 organization;”.

3 **SEC. 7114. PERMANENT REDUCTION OF SPECIAL ALLOW-**
4 **ANCE PAYMENTS FOR LOANS FROM THE PRO-**
5 **CEEDS OF TAX EXEMPT ISSUES.**

6 (a) **TECHNICAL CLARIFICATION.**—The matter pre-
7 ceding paragraph (1) of section 2 of the Taxpayer-Teacher
8 Protection Act of 2004 (Public Law 108–409; 118 Stat.
9 2299) is amended by inserting “of the Higher Education
10 Act of 1965” after “Section 438(b)(2)(B)”. The amend-
11 ment made by the preceding sentence shall be effective as
12 if enacted on October 30, 2004.

13 (b) **AMENDMENT.**—Section 438(b)(2)(B) of the
14 Higher Education Act of 1965 (20 U.S.C. 1087–
15 1(b)(2)(B)) is amended—

16 (1) in clause (iv), by striking “and before Janu-
17 ary 1, 2006,”; and

18 (2) in clause (v)(II)—

19 (A) in item (aa), by striking “and before
20 January 1, 2006,”;

21 (B) in item (bb), by striking “and before
22 January 1, 2006,”; and

23 (C) in item (cc), by striking “and before
24 January 1, 2006,”.

1 **SEC. 7115. SPECIAL ALLOWANCES.**

2 (a) **ORIGINATION FEES.**—Paragraph (2) of section
3 438(c) of the Higher Education Act of 1965 (20 U.S.C.
4 1087–1(c)) is amended—

5 (1) by striking the designation and heading of
6 such paragraph and inserting the following:

7 “(2) **AMOUNT OF ORIGINATION FEES.**—

8 “(A) **IN GENERAL.**—”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) **SUBSEQUENT REDUCTIONS.**—Sub-
12 paragraph (A) shall be applied to loans made
13 under this part (other than loans made under
14 sections 428C and 439(o)) by substituting ‘2.50
15 percent’ for ‘3.0 percent’ with respect to loans
16 for which the first disbursement of principal is
17 made on or after July 1, 2007.”.

18 (b) **LOAN FEES FROM LENDERS.**—

19 (1) **AMENDMENT.**—Paragraph (2) of section
20 438(d)(2) of the Higher Education Act of 1965 (20
21 U.S.C. 1087–1(d)) is amended to read as follows:

22 “(2) **AMOUNT OF LOAN FEES.**—

23 “(A) **IN GENERAL.**—Except as provided in
24 subparagraph (B), with respect to any loan
25 made under this part for which the first dis-
26 bursement was made on or after October 1,

1 1993, the amount of the loan fee that shall be
2 deducted under paragraph (1) shall be equal to
3 0.50 percent of the principal amount of the
4 loan.

5 “(B) CONSOLIDATION LOANS.—With re-
6 spect to any loan made under section 428C on
7 or after April 1, 2006, the amount of the loan
8 fee that shall be deducted under paragraph (1)
9 shall be equal to 1.0 percent of the principal
10 amount of the loan.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall apply with respect to any
13 loan made, insured, or guaranteed under part B of
14 title IV of the Higher Education Act of 1965 (20
15 U.S.C. 1071 et seq.) for which the first disburse-
16 ment is made on or after April 1, 2006.

17 **SEC. 7116. ORIGINATION FEE.**

18 Section 455(c) of the Higher Education Act of 1965
19 (20 U.S.C. 1087e(c)) is amended—

20 (1) by striking “shall” and inserting “is author-
21 ized to”; and

22 (2) by striking “4.0 percent of the principal
23 amount of loan” and inserting “not less than 1 per-
24 cent and not more than 3 percent of the principal
25 amount of the loan, except that the Secretary shall

1 charge the borrower of a Federal Direct PLUS Loan
 2 an origination fee of 4.0 percent of the principal
 3 amount of the loan. Beginning on July 1, 2007, the
 4 preceding sentence shall be applied by substituting
 5 ‘2.5 percent’ for ‘3 percent’.”

6 **SEC. 7117. INCOME CONTINGENT REPAYMENT FOR PUBLIC**
 7 **SECTOR EMPLOYEES.**

8 Section 455(e) of the Higher Education Act of 1965
 9 (20 U.S.C. 1087e(e)) is amended by adding at the end
 10 the following:

11 “(7) REPAYMENT PLAN FOR PUBLIC SECTOR
 12 EMPLOYEES.—

13 “(A) IN GENERAL.—The Secretary shall
 14 forgive the balance due on any loan made under
 15 this part or section 428C(b)(5) for a
 16 borrower—

17 “(i) who has made 120 payments on
 18 such loan pursuant to income contingent
 19 repayment; and

20 “(ii) who is employed, and was em-
 21 ployed for the 10-year period in which the
 22 borrower made the 120 payments de-
 23 scribed in clause (i), in a public sector job.

24 “(B) PUBLIC SECTOR JOB.—In this para-
 25 graph, the term ‘public sector job’ means a full-

1 time job in emergency management, govern-
 2 ment, public safety, law enforcement, public
 3 health, education (including early childhood
 4 education), or public interest legal services (in-
 5 cluding prosecution or public defense).

6 “(8) RETURN TO STANDARD REPAYMENT.—A
 7 borrower who is repaying a loan made under this
 8 part pursuant to income contingent repayment may
 9 choose, at any time, to terminate repayment pursu-
 10 ant to income contingent repayment and repay such
 11 loan under the standard repayment plan.”.

12 **SEC. 7118. FAMILY CONTRIBUTION FOR DEPENDENT STU-**
 13 **DENTS.**

14 (a) AMENDMENTS.—Section 475 of the Higher Edu-
 15 cation Act of 1965 (20 U.S.C. 108700) is amended—

16 (1) in subsection (g)(2)(D), by striking
 17 “\$2,200” and inserting “\$3,000”; and

18 (2) in subsection (h), by striking “35” and in-
 19 serting “20”.

20 (b) EFFECTIVE DATE.—The amendments made by
 21 subsection (a) shall apply with respect to determinations
 22 of need for periods of enrollment beginning on or after
 23 July 1, 2007.

1 **SEC. 7119. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**
 2 **DENTS WITHOUT DEPENDENTS OTHER THAN**
 3 **A SPOUSE.**

4 (a) AMENDMENTS.—Section 476 of the Higher Edu-
 5 cation Act of 1965 (20 U.S.C.1087pp) is amended—

6 (1) in subsection (b)(1)(A)(iv)—

7 (A) in subclause (I), by striking “\$5,000”
 8 and inserting “\$6,050”;

9 (B) in subclause (II), by striking “\$5,000”
 10 and inserting “\$6,050”; and

11 (C) in subclause (III), by striking
 12 “\$8,000” and inserting “\$9,700”; and

13 (2) in subsection (c)(4), by striking “35” and
 14 inserting “20”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 subsection (a) shall apply with respect to determinations
 17 of need for periods of enrollment beginning on or after
 18 July 1, 2007.

19 **SEC. 7120. FAMILY CONTRIBUTION FOR INDEPENDENT STU-**
 20 **DENTS WITH DEPENDENTS OTHER THAN A**
 21 **SPOUSE.**

22 (a) AMENDMENT.—Section 477(c)(4) of the Higher
 23 Education Act of 1965 (20 U.S.C. 1087qq(c)(4)) is
 24 amended by striking “12” and inserting “7”.

25 (b) EFFECTIVE DATE.—The amendment made by
 26 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. 7121. REGULATIONS; UPDATED TABLES.**

4 Section 478(b) of the Higher Education Act of 1965
5 (20 U.S.C. 1087rr(b)) is amended—

6 (1) in paragraph (1), by adding at the end the
7 following: “For the 2007–2008 academic year, the
8 Secretary shall revise the tables in accordance with
9 this paragraph, except that the Secretary shall in-
10 crease the amounts contained in the table in section
11 477(b)(4) by a percentage equal to the greater of
12 the estimated percentage increase in the Consumer
13 Price Index (as determined under the preceding sen-
14 tence) or 5 percent.”; and

15 (2) in paragraph (2), by striking “2000–2001”
16 and inserting “2007–2008”.

17 **SEC. 7122. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO**
18 **IMPROVEMENTS.**

19 (a) AMENDMENTS.—Section 479 of the Higher Edu-
20 cation Act of 1965 (20 U.S.C. 1087ss) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1)—

23 (i) in subparagraph (A), by striking
24 clause (i) and inserting the following:

25 “(i) the student’s parents—

1 “(I) file, or are eligible to file, a
2 form described in paragraph (3);

3 “(II) certify that the parents are
4 not required to file a Federal income
5 tax return; or

6 “(III) received, or the student re-
7 ceived, benefits at some time during
8 the previous 12-month period under a
9 means-tested Federal benefit program
10 as defined under subsection (d); and”;
11 and

12 (ii) in subparagraph (B), by striking
13 clause (i) and inserting the following:

14 “(i) the student (and the student’s
15 spouse, if any)—

16 “(I) files, or is eligible to 1 file,
17 a form described in paragraph (3);

18 “(II) certifies that the student
19 (and the student’s spouse, if any) is
20 not required to file a Federal income
21 tax return; or

22 “(III) received benefits at some
23 time during the previous 12-month
24 period under a means-tested Federal

1 benefit program as defined under sub-
2 section (d); and”;

3 (B) in the matter preceding subparagraph
4 (A) of paragraph (3), by striking “A student or
5 family files a form described in this subsection,
6 or subsection (c), as the case maybe, if the stu-
7 dent or family, respectively, files” and inserting
8 “In the case of an independent student, the stu-
9 dent, or in the case of a dependent student, the
10 family, files a form described in this subsection,
11 or subsection (c), as the case may be, if the stu-
12 dent or family, as appropriate, files”;

13 (2) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) by striking subparagraph (A) and
16 inserting the following:

17 “(A) the student’s parents—

18 “(i) file, or are eligible to file, a form
19 described in subsection (b)(3);

20 “(ii) certify that the parents are not
21 required to file a Federal income tax re-
22 turn; or

23 “(iii) received, or the student received,
24 benefits at some time during the previous
25 12-month period under a means-tested

1 Federal benefit program as defined under
2 subsection (d); and”;

3 (ii) by striking subparagraph (B) and
4 inserting the following:

5 “(B) the sum of the adjusted gross income
6 of the parents is less than or equal to \$20,000;
7 or”;

8 (B) in paragraph (2)—

9 (i) by striking subparagraph (A) and
10 inserting the following:

11 “(A) the student (and the student’s
12 spouse, if any)—

13 “(i) files, or is eligible to file, a form
14 described in subsection (b)(3);

15 “(ii) certifies that the student (and
16 the student’s spouse, if any) is not re-
17 quired to file a Federal income tax return;
18 or

19 “(iii) received benefits at some time
20 during the previous 12-month period under
21 a means-tested Federal benefit program as
22 defined under subsection (d); and”;

23 (ii) by striking subparagraph (B) and
24 inserting the following:

1 “(B) the sum of the adjusted gross income
2 of the student and spouse (if appropriate) is
3 less than or equal to \$20,000.”; and

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

5 “(d) DEFINITIONS.—In this section:

6 “(1) MEANS-TESTED FEDERAL BENEFIT PRO-
7 GRAM.—In this section, the term “means-tested
8 Federal benefit program” means a mandatory
9 spending program of the Federal Government, other
10 than a program under this title, in which eligibility
11 for the program’s benefits, or the amount of such
12 benefits, are determined on the basis of income or
13 resources of the individual or family seeking the ben-
14 efit, and may include such programs as—

15 “(A) the supplemental security income pro-
16 gram under title XVI of the Social Security Act
17 (42 U.S.C. 1381 et seq.);

18 “(B) the food stamp program under the
19 Food Stamp Act of 1977 (7 U.S.C. 2011 et
20 seq.);

21 “(C) the free and reduced price school
22 lunch program established under the Richard
23 B. Russell National School Lunch Act (42
24 U.S.C. 1751 et seq.);

1 “(D) the program of block grants for
2 States for temporary assistance for needy fami-
3 lies established under part A of title IV of the
4 Social Security Act (42 U.S.C. 601 et seq.);

5 “(E) the special supplemental nutrition
6 program for women, infants, and children es-
7 tablished by section 17 of the Child Nutrition
8 Act of 1966 (42 U.S.C. 1786); and

9 “(F) other programs identified by the Sec-
10 retary.”.

11 (b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

12 (1) ELIGIBILITY GUIDELINES.—The Secretary
13 of Education shall regularly evaluate the impact of
14 the eligibility guidelines in subsections (b)(1)(A)(i),
15 (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479
16 of the Higher Education Act of 1965 (20 U.S.C.
17 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and
18 (c)(2)(A)).

19 (2) MEANS-TESTED FEDERAL BENEFIT PRO-
20 GRAM.—For each 3-year period, the Secretary of
21 Education shall evaluate the impact of including the
22 receipt of benefits by a student or parent under a
23 means-tested Federal benefit program (as defined in
24 section 479(d) of the Higher Education Act of 1965
25 (20 U.S.C. 1087ss(d)) as a factor in determining eli-

1 gibility under subsections (b) and (c) of section 479
 2 of the Higher Education Act of 1965 (20 U.S.C.
 3 1087ss(b) and (c)).

4 **SEC. 7123. LOAN FORGIVENESS FOR TEACHERS.**

5 Section 3(b)(3) of the Taxpayer-Teacher Protection
 6 Act of 2004 (20 U.S.C. 1078–10 note) is amended by
 7 striking “, and before October 1, 2005”.

8 **SEC. 7124. EFFECTIVE DATE.**

9 Except as otherwise provided in this chapter or the
 10 amendments made by this chapter, the amendments made
 11 by this chapter shall take effect on July 1, 2006.

12 **CHAPTER 2—HURRICANE KATRINA**
 13 **HIGHER EDUCATION RECOVERY**

14 **SEC. 7151. SHORT TITLE.**

15 This chapter may be cited as the “Hurricane Katrina
 16 Higher Education Recovery Act”.

17 **SEC. 7152. DEFINITIONS.**

18 In this chapter:

19 (1) **AFFECTED BORROWER.**—The term “af-
 20 fected borrower” means an individual who—

21 (A) was in repayment, but not in
 22 deferment, on a loan made, insured, or guaran-
 23 teed under part B, D, or E of the Higher Edu-
 24 cation Act of 1965 (20 U.S.C. 1071 et seq.,
 25 1087a et seq., 1087aa et seq.) on August 22,

1 2005, or enters or entered repayment after Au-
2 gust 22, 2005 and before June 30, 2006; and

3 (B)(i) lives or lived, as of August 22,
4 2005, in a county or parish of Alabama, Lou-
5 isiana, or Mississippi—

6 (I) in which a major disaster has been
7 declared in accordance with section 401 of
8 the Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C.
10 5170) as a result of Hurricane Katrina;
11 and

12 (II) which the President has deter-
13 mined warrants individual assistance from
14 the Federal Government; or

15 (ii) worked, as of August 22, 2005, in a
16 county or parish described in clause (i).

17 (2) AFFECTED INSTITUTION.—

18 (A) IN GENERAL.—The term “affected in-
19 stitution” means an institution of higher edu-
20 cation, as defined in section 101 or 102 of the
21 Higher Education Act of 1965 (20 U.S.C.
22 1001, 1002), that—

23 (i) is located in an area in which a
24 major disaster has been declared in accord-
25 ance with section 401 of the Robert T.

1 Stafford Disaster Relief and Emergency
2 Assistance Act due to the effects of Hurri-
3 cane Katrina; and

4 (ii) is impacted by Hurricane Katrina.

5 (B) LENGTH OF TIME.—In determining
6 eligibility for assistance under this chapter, the
7 Secretary, using consistent, objective criteria,
8 shall determine the time period for which an in-
9 stitution of higher education is an affected in-
10 stitution.

11 (C) SPECIAL RULE.—An organizational
12 unit of an affected institution that is not im-
13 pacted by Hurricane Katrina shall not be con-
14 sidered as part of such affected institution for
15 purposes of receiving assistance under this
16 chapter.

17 (3) AFFECTED STUDENT.—The term “affected
18 student” means a student who was enrolled on Au-
19 gust 29, 2005 in an affected institution.

20 (4) DISTANCE EDUCATION.—

21 (A) IN GENERAL.—The term “distance
22 education” means a course or program that
23 uses 1 or more of the technologies described in
24 subparagraph (B) to—

1 (i) deliver instruction to students who
2 are separated from the instructor; and

3 (ii) support regular and substantive
4 interaction between the students and the
5 instructor, either synchronously or asyn-
6 chronously.

7 (B) INCLUSIONS.—For the purposes of
8 subparagraph (A), the technologies used may
9 include—

10 (i) the Internet;

11 (ii) one-way and two-way trans-
12 missions through open broadcast, closed
13 circuit, cable, microwave, broadband lines,
14 fiber optics, satellite, or wireless commu-
15 nications devices;

16 (iii) audio conferencing; or

17 (iv) video cassette, DVDs, and CD-
18 ROMs, provided that they are used in a
19 course in conjunction with the technologies
20 listed in clauses (i) through (iii).

21 (5) SECRETARY.—The term “Secretary” means
22 the Secretary of Education.

1 **SEC. 7153. WAIVER AUTHORITY AND MODIFICATIONS TO**
2 **CERTAIN PROVISIONS OF THE HIGHER EDU-**
3 **CATION ACT OF 1965.**

4 (a) **WAIVER OF INSTITUTIONAL REPAYMENT.**—Not-
5 withstanding any other provision of law, including require-
6 ments related to cash management, an affected institution
7 shall not be required to return any funds received by the
8 affected institution for, or on behalf of, its students under
9 subparts 1 and 3 of part A and parts B, C, D, and E
10 of title IV of the Higher Education Act of 1965 (20 U.S.C.
11 1070, 1070b et seq., 1071 et seq., 1087a et seq., 1087aa
12 et seq., 42 U.S.C. 2751 et seq.) during the 2005–2006
13 academic year.

14 (b) **WAIVER OF STUDENT RETURN OF ASSIST-**
15 **ANCE.**—Notwithstanding any other provision of law, an
16 affected student who, as of the date of enactment of this
17 Act, received assistance under subpart 1 or 3 of part A
18 or parts B, C, D, or E of title IV of the Higher Education
19 Act of 1965 for attendance at an affected institution of
20 higher education during the 2005–2006 academic year,
21 shall not be required to return such assistance.

22 (c) **AFFECTED STUDENTS WHO DO NOT ENROLL IN**
23 **ANOTHER INSTITUTION AND BORROWERS IN GRACE PE-**
24 **RIODS OR DEFERMENT.**—With respect to a loan made, in-
25 sured, or guaranteed under part B, D, or E of title IV

1 of the Higher Education Act of 1965 (20 U.S.C. 1071
2 et seq., 1087a et seq., 1087aa et seq.)—

3 (1) an affected student who does not enroll in
4 another institution of higher education shall be re-
5 tained in in-school status during the period begin-
6 ning on August 22, 2005, and ending on June 30,
7 2006; and

8 (2) a borrower in a grace period or in
9 deferment as of August 22, 2005 who satisfies the
10 requirement described in clause (i) or clause (ii) of
11 section 201(1)(B) shall be retained in such status,
12 without documentation or action by the borrower,
13 until June 30, 2006.

14 (d) DISCHARGE OR CANCELLATION OF LOANS.—The
15 Secretary shall—

16 (1) discharge all loan amounts under parts B
17 and D of title IV of the Higher Education Act of
18 1965 (20 U.S.C. 1071 et seq., 1087a et seq.) dis-
19 bursed to, or on behalf of, an affected student for
20 attendance at an affected institution of higher edu-
21 cation during the 2005–2006 academic year;

22 (2) reimburse lenders for the purpose of dis-
23 charging any loan amounts disbursed to, or on be-
24 half of, a student under part B of title IV of the
25 Higher Education Act of 1965 (20 U.S.C. 1071 et

1 seq.), for attendance at an affected institution of
2 higher education during the 2005–2006 academic
3 year; and

4 (3) cancel any loan under part E of title IV of
5 the Higher Education Act of 1965 (20 U.S.C.
6 1087aa et seq.) disbursed to a student for attend-
7 ance at an affected institution of higher education
8 during the 2005–2006 academic year.

9 (e) AGGREGATE AND ANNUAL LIMITS.—In the case
10 of an affected student, any grant or loan assistance under
11 title IV of the Higher Education Act of 1965 (20 U.S.C.
12 1070 et seq.) that such student received, or was to have
13 received, for a program of study at an affected institution
14 of higher education during the 2005–2006 academic year
15 shall not count against such student’s annual or aggregate
16 grant or loan limits for receipt of aid under such title.

17 (f) FORBEARANCE.—Notwithstanding the provisions
18 of part B, D, or E of title IV of the Higher Education
19 Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq.,
20 1087aa et seq.), a lender, the Secretary, or an institution
21 of higher education is authorized to provide not more than
22 1 year of forbearance to an affected borrower without doc-
23 umentation.

24 (g) PROFESSIONAL JUDGMENT.—A financial aid ad-
25 ministrator shall be considered to be making an adjust-

1 ment in accordance with section 479A(a) of the Higher
2 Education Act of 1965 (20 U.S.C. 1087tt(a)) if the finan-
3 cial aid administrator makes the adjustment with respect
4 to the calculation of the expected student or parent con-
5 tribution (or both) for an affected student, or for a stu-
6 dent or a parent who resides or resided on August 22,
7 2005, or was employed on August 22, 2005, in an area
8 in which a major disaster has been declared in accordance
9 with section 401 of the Robert T. Stafford Disaster Relief
10 and Emergency Assistance Act due to the effects of Hurri-
11 cane Katrina. The financial aid administrator shall ade-
12 quately document the need for the adjustment.

13 (h) MODIFICATION OF PART A OF TITLE II GRANTS
14 AUTHORIZED.—The Secretary is authorized to approve
15 modifications to the requirements for Teacher Quality En-
16 hancement Grants for States and Partnerships under part
17 A of title II of the Higher Education Act of 1965 (20
18 U.S.C. 1021 et seq.), at the request of the grantee—

19 (1) to assist States and local educational agen-
20 cies to recruit and retain highly qualified teachers in
21 a school district located in an area in which a major
22 disaster has been declared in accordance with section
23 401 of the Robert T. Stafford Disaster Relief and
24 Emergency Assistance Act due to the effects of Hur-
25 ricane Katrina; and

1 (2) to assist institutions of higher education, as
2 defined in section 101 of such Act (20 U.S.C. 1001),
3 located in such area to recruit and retain faculty
4 necessary to prepare teachers and provide profes-
5 sional development.

6 (i) WAIVER AUTHORITY TO MODIFY AUTHORIZED
7 USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III,
8 AND OTHER GRANTS.—The Secretary is authorized to
9 modify the required and allowable uses of funds under
10 chapters 1 and 2 of subpart 2 of part A of title IV of
11 the Higher Education Act of 1965 (20 U.S.C. 1070a et
12 seq., 1070a–21 et seq.), under part A or B of title III
13 (20 U.S.C. 1057 et seq., 1060 et seq.), and under any
14 other competitive grant program, at the request of an af-
15 fected institution or other grantee, with respect to affected
16 institutions and other grantees located in an area in which
17 a major disaster has been declared in accordance with sec-
18 tion 401 of the Robert T. Stafford Disaster Relief and
19 Emergency Assistance Act due to the effects of Hurricane
20 Katrina.

21 (j) AUTHORITY TO EXTEND OR WAIVE REPORTING
22 REQUIREMENTS UNDER SECTION 131(a).—The Secretary
23 is authorized to extend reporting deadlines or waive re-
24 porting requirements under section 131(a) of the Higher

1 Education Act of 1965 (20 U.S.C. 1015(a)) for an af-
2 fected institution.

3 (k) DISTANCE EDUCATION.—The Secretary may
4 waive the restrictions of subparagraphs (A) and (B) of
5 section 102(a)(3) of the Higher Education Act of 1965
6 (20 U.S.C. 1002(a)(3)(A) and (B)) with respect to an in-
7 stitution of higher education, other than a foreign institu-
8 tion, that offers education or training programs through
9 distance education and is otherwise eligible to participate
10 in programs authorized under title IV of such Act (20
11 U.S.C. 1070 et seq.), if such institution exceeds such re-
12 strictions described in such subparagraphs due to the en-
13 rollment of affected students.

14 **SEC. 7154. GENERAL WAIVER AUTHORITY AND REQUIRED**
15 **CONSULTATION.**

16 (a) WAIVER AUTHORITY.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law, the Secretary may waive or modify
19 any statutory provision of the Higher Education Act
20 of 1965 (20 U.S.C. 1001 et seq.) or any regulation
21 implementing such Act as the Secretary determines
22 necessary in connection with a major disaster that
23 has been declared in accordance with section 401 of
24 the Robert T. Stafford Disaster Relief and Emer-

1 agency Assistance Act due to the effects of Hurricane
2 Katrina.

3 (2) ACTIONS AUTHORIZED.—In carrying out
4 paragraph (1), the Secretary is authorized to waive
5 or modify any provision described in paragraph (1)
6 as the Secretary determines necessary to ensure
7 that—

8 (A) administrative requirements placed on
9 affected students, affected borrowers, institu-
10 tions of higher education, lenders, guaranty
11 agencies and grantees are minimized to the ex-
12 tent possible without impairing the integrity of
13 the higher education programs under the High-
14 er Education Act of 1965, to ease the burden
15 on such participants; or

16 (B) institutions of higher education, lend-
17 ers, guaranty agencies, and other entities par-
18 ticipating in the student financial assistance
19 programs under title IV of the Higher Edu-
20 cation Act of 1965 (20 U.S.C. 1070 et seq.),
21 that serve an area in which a major disaster
22 has been declared in accordance with section
23 401 of the Robert T. Stafford Disaster Relief
24 and Emergency Assistance Act due to the ef-
25 fects of Hurricane Katrina, may be granted

1 temporary relief from requirements that are
2 rendered infeasible or unreasonable due to the
3 effects of Hurricane Katrina, including due dili-
4 gence requirements and reporting deadlines.

5 (b) CONSTRUCTION.—Nothing in this section shall be
6 construed to allow the Secretary to waive or modify any
7 applicable statutory or regulatory requirements prohib-
8 iting discrimination in a program or activity, or in employ-
9 ment or contracting, under existing law (in existence on
10 the date of the Secretary’s action).

11 (c) CONSULTATION.—Prior to granting any waiver or
12 modification under this section, the Secretary shall consult
13 with the Committee on Health, Education, Labor, and
14 Pensions and the Committee on Appropriations of the
15 Senate and the Committee on Education and the Work-
16 force and the Committee on Appropriations of the House
17 of Representatives with respect to waivers or modifications
18 under this section.

19 **SEC. 7155. NOTICE OF WAIVERS, MODIFICATIONS, OR EX-**
20 **TENSIONS.**

21 Notwithstanding section 437 of the General Edu-
22 cation Provisions Act (20 U.S.C. 1232) and section 553
23 of title 5, United States Code, the Secretary shall make
24 publicly available the waivers, modifications, or extensions
25 granted under section 7153 or 7154.

1 **SEC. 7156. REGULATORY REQUIREMENTS INAPPLICABLE.**

2 Sections 482(c) and 492 of the Higher Education Act
3 of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the
4 General Education Provisions Act (20 U.S.C. 1232), and
5 section 553 of title 5, United States Code, shall not apply
6 to this chapter.

7 **SEC. 7157. DEPARTMENT OF EDUCATION INSPECTOR GEN-**
8 **ERAL AUDIT AND REPORT.**

9 (a) IN GENERAL.—The Inspector General of the De-
10 partment of Education (referred to in this section as the
11 “Inspector General”) shall conduct an audit and investiga-
12 tion of each program carried out by the Department of
13 Education that includes response and recovery activities
14 related to Hurricane Katrina.

15 (b) WEEKLY REPORT.—Not less frequently than once
16 a week, the Inspector General shall provide a report to
17 the Committee on Health, Education, Labor, and Pen-
18 sions and the Committee on Appropriations of the Senate
19 and the Committee on Education and the Workforce and
20 the Committee on Appropriations of the House of Rep-
21 resentatives listing the audits and investigations initiated
22 pursuant to subsection (a).

23 (c) STATUS REPORT.—Not later than 6 months after
24 the date of enactment of this Act, and biannually there-
25 after until the audits and investigations described in sub-
26 section (a) are complete, the Inspector General shall re-

1 port to the Committee on Health, Education, Labor, and
 2 Pensions and the Committee on Appropriations of the
 3 Senate and the Committee on Education and the Work-
 4 force and the Committee on Appropriations of the House
 5 of Representatives on the full status of the activities of
 6 the Inspector General under this section.

7 (d) COOPERATIVE VENTURES.—In carrying out this
 8 section, the Inspector General is encouraged to enter into
 9 cooperative ventures with Inspectors General of other Fed-
 10 eral agencies.

11 **SEC. 7158. SUNSET PROVISION.**

12 Except as otherwise provided in this chapter, the pro-
 13 visions of this chapter shall be effective for the period be-
 14 ginning on the date of enactment of this Act and ending
 15 on September 30, 2006.

16 **Subtitle B—Pension Benefit**
 17 **Guaranty Corporation Premiums**

18 **SEC. 7201. AMENDMENTS TO THE EMPLOYEE RETIREMENT**

19 **INCOME SECURITY ACT OF 1974.**

20 (a) FLAT-RATE PREMIUMS.—

21 (1) SINGLE-EMPLOYER PLANS.—Section
 22 4006(a)(3)(A)(i) of the Employee Retirement In-
 23 come Security Act of 1974 (29 U.S.C.
 24 1306(a)(3)(A)(i)) is amended to read as follows:

1 “(i) in the case of a single-employer plan, an
2 amount equal to—

3 “(I) for plan years beginning after Decem-
4 ber 31, 1990, and before January 1, 2006, \$19,
5 or

6 “(II) except as provided in subparagraph
7 (F), for plan years beginning after December
8 31, 2005, \$46.75,
9 plus the additional premium (if any) determined
10 under subparagraph (E) for each individual who is
11 a participant in such plan during the plan year;”.

12 (2) MULTIEMPLOYER PLANS.—Section
13 4006(a)(3)(A) of such Act (29 U.S.C.
14 1306(a)(3)(A)) is amended—

15 (A) in clause (iii), by—

16 (i) inserting “and before January 1,
17 2006,” after “Act of 1980;” and

18 (ii) striking the period at the end and
19 inserting “, or”; and

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

21 “(iv) in the case of a multiemployer
22 plan an amount equal to the following for
23 each individual who is a participant in
24 such plan during the applicable plan year:

1 “(I) \$8.00 for plan years begin-
2 ning in 2006.

3 “(II) For plan years after De-
4 cember 31, 2006, the amount deter-
5 mined under subparagraph (G).

6 (3) INDEXING OF FLAT-RATE PREMIUMS.—

7 (A) SINGLE-EMPLOYER PREMIUMS.—Sec-
8 tion 4006(a)(3) of such Act (29 U.S.C.
9 1306(a)(3)), as amended by this Act, is amend-
10 ed by adding at the end the following:

11 “(F) INDEXING OF SINGLE-EMPLOYER
12 FLAT-RATE PREMIUMS.—

13 “(i) IN GENERAL.—In the case of any
14 plan year beginning after 2006, the ad-
15 justed amount under clause (ii) shall be
16 substituted for the dollar amount under
17 clause (i)(II) of subparagraph (A), if such
18 adjusted amount is greater than such dol-
19 lar amount.

20 “(ii) ADJUSTED AMOUNT.—The ad-
21 justed amount for the dollar amount in
22 clause (i)(II) of subparagraph (A) for any
23 plan year is the product derived by multi-
24 plying such dollar amount by the ratio
25 of—

1 “(I) the national average wage
 2 index (as defined in section 209(k)(1)
 3 of the Social Security Act) for the
 4 first of the 2 calendar years preceding
 5 the calendar year in which the plan
 6 year begins, to

7 “(II) the national average wage
 8 index (as so defined) for 2004.

9 If the amount determined under this
 10 clause is not a multiple of \$1, such product
 11 shall be rounded to the nearest multiple of
 12 \$1.”.

13 (B) MULTIEMPLOYER PREMIUMS—Section
 14 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)),
 15 as amended by this Act, is amended by adding
 16 at the end the following:

17 “(G) INDEXING OF MULTIEMPLOYER
 18 FLAT-RATE PREMIUMS.—The amount deter-
 19 mined under this subparagraph is the product
 20 derived by multiplying \$8.00 by the ratio of—

21 “(i) the national average wage index
 22 (as defined in section 209(k)(1) of the So-
 23 cial Security Act) for the first of the 2 cal-
 24 endar years preceding the calendar year in
 25 which the plan year begins, to

1 “(ii) the national average wage index
 2 (as defined in subparagraph (F)) for 2004.
 3 If the amount determined under this clause is
 4 not a multiple of \$1, such product shall be
 5 rounded to the nearest multiple of \$1.”.

6 (b) PREMIUM RATE FOR CERTAIN TERMINATED SIN-
 7 GLE-EMPLOYER PLANS.—Section 4006(a) of such Act (29
 8 U.S.C. 1306(a)) is amended by adding at the end the fol-
 9 lowing:

10 “(7) PREMIUM RATE FOR CERTAIN TERMI-
 11 NATED SINGLE-EMPLOYER PLANS.—

12 “(A) IN GENERAL.—If there is a termi-
 13 nation of a single-employer plan under clause
 14 (ii) or (iii) of section 4041(c)(2)(B) or section
 15 4042, there shall be payable to the corporation,
 16 with respect to each applicable 12-month pe-
 17 riod, a premium at a rate equal to \$1,250 mul-
 18 tiplied by the number of individuals who were
 19 participants in the plan immediately before the
 20 termination date. Such premium shall be in ad-
 21 dition to any other premium under this section.

22 “(B) SPECIAL RULE FOR PLANS TERMI-
 23 NATED IN BANKRUPTCY REORGANIZATION.—
 24 Subparagraph (A) shall not apply to a single-
 25 employer plan terminated under section

1 4041(c)(2)(B)(ii) or under section 4042 during
 2 pendency of any bankruptcy reorganization pro-
 3 ceeding under chapter 11 of title 11, United
 4 States Code, (or under any similar law of a
 5 State or political subdivision of a State) until
 6 the plan sponsor emerges from bankruptcy.

7 “(C) APPLICABLE 12-MONTH PERIOD.—

8 For purposes of subparagraph (A)—

9 “(i) IN GENERAL.—The term ‘applica-
 10 ble 12-month period’ means—

11 “(I) the 12-month period begin-
 12 ning with the first month following
 13 the month in which the termination
 14 date occurs, and

15 “(II) each of the first two 12-
 16 month periods immediately following
 17 the period described in subclause (I).

18 “(ii) PLANS TERMINATED IN BANK-
 19 RUPTCY REORGANIZATION.—In the case of
 20 a plan described under subparagraph (B),
 21 the 12-month period described in clause
 22 (i)(I) shall be the 12-month period begin-
 23 ning with the first month following the
 24 month which includes the date the plan
 25 sponsor emerges from bankruptcy.

1 “(D) COORDINATION WITH SECTION
2 4007.—For purposes of section 4007—

3 “(i) premiums under this paragraph
4 shall be due within 30 days after the be-
5 ginning of any applicable 12-month period,

6 “(ii) the fifth sentence of section
7 4007(a) shall not apply, and

8 “(iii) the designated payor under sec-
9 tion 4007(e)(1)(A) shall be the contrib-
10 uting sponsor immediately before the ter-
11 mination date.”.

12 (c) CONFORMING AMENDMENT.—Section
13 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is
14 amended by striking “subparagraph (A)(iii)” and insert-
15 ing “clause (iii) or (iv) of subparagraph (A)”.

16 (d) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to plan years beginning after
19 December 31, 2005.

20 (2) SPECIAL RULE FOR PLANS TERMINATED IN
21 BANKRUPTCY.—The amendment made by subsection
22 (b) shall not apply to a termination of a single-em-
23 ployer plan that is terminated during the pendency
24 of any bankruptcy reorganization proceeding under
25 chapter 11 of title 11, United States Code (or under

1 any similar law of a State or political subdivision of
 2 a State), if the proceeding is pursuant to a bank-
 3 ruptcy filing occurring before October 18, 2005.

4 (3) SPECIAL RULE IF SUBSEQUENT SAVINGS
 5 ENACTED.—The amendments made by this section
 6 shall not take effect if, after the date of enactment
 7 of this Act and before January 1, 2006, a Federal
 8 law is enacted which—

9 (A) provides for decreases in Federal out-
 10 lays which in the aggregate are not less than
 11 the decreases in Federal outlays by reason of
 12 the amendments made by this section; and

13 (B) specifically provides that such de-
 14 creases are to be in lieu of the decreases in
 15 Federal outlays by reason of the amendments
 16 made by this section.

17 **Subtitle C—Higher Education**
 18 **Reauthorization**

19 **CHAPTER 1—SHORT TITLE; REFERENCES;**
 20 **GENERAL EFFECTIVE DATE**

21 **SEC. 7301. SHORT TITLE.**

22 (a) SHORT TITLE.—This subtitle may be cited as the
 23 “Higher Education Amendments of 2005”.

1 **SEC. 7302. REFERENCES.**

2 Except as otherwise expressly provided, whenever in
 3 this subtitle an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of the Higher Education Act of
 7 1965 (20 U.S.C. 1001 et seq.).

8 **SEC. 7303. GENERAL EFFECTIVE DATE.**

9 Except as otherwise provided in this subtitle or the
 10 amendments made by this subtitle, the amendments made
 11 by this subtitle shall take effect on July 1, 2006.

12 **CHAPTER 2—GENERAL PROVISIONS**

13 **SEC. 7311. ADDITIONAL DEFINITIONS.**

14 (a) AMENDMENT.—Section 103 (20 U.S.C. 1003) is
 15 amended—

16 (1) by redesignating paragraphs (1) through
 17 (16) as paragraphs (2) through (17), respectively;
 18 and

19 (2) by inserting before paragraph (2) (as redес-
 20 igned by paragraph (1)) the following:

21 “(1) AUTHORIZING COMMITTEES.—The term
 22 ‘authorizing committees’ means the Committee on
 23 Health, Education, Labor, and Pensions of the Sen-
 24 ate and the Committee on Education and the Work-
 25 force of the House of Representatives.”.

1 (b) CONFORMING AMENDMENTS.—The Act (20
2 U.S.C. 1001 et seq.) is amended—

3 (1) in section 131(a)(3)(B) (20 U.S.C.
4 1015(a)(3)(B)), by striking “Committee on Labor
5 and Human Resources of the Senate and the Com-
6 mittee on Education and the Workforce of the
7 House of Representatives” and inserting “author-
8 izing committees”;

9 (2) in section 141(d)(4)(B) (20 U.S.C.
10 1018(d)(4)(B)), by striking “Committee on Edu-
11 cation and the Workforce of the House of Rep-
12 resentatives and the Committee on Labor and
13 Human Resources of the Senate” and inserting “au-
14 thORIZING committees”;

15 (3) in section 207(c)(1) (20 U.S.C. 1027(c)(1)),
16 by striking “Committee on Labor and Human Re-
17 sources of the Senate and the Committee on Edu-
18 cation and the Workforce of the House of Rep-
19 resentatives” and inserting “authorizing commit-
20 tees”;

21 (4) in section 401(f)(3) (20 U.S.C.
22 1070a(f)(3)), by striking “to the Committee on Ap-
23 propriations” and all that follows through “House of
24 Representatives” and inserting “to the Committee
25 on Appropriations of the Senate, the Committee on

1 Appropriations of the House of Representatives, and
2 the authorizing committees”;

3 (5) in section 428 (20 U.S.C. 1078)—

4 (A) in subsection (c)(9)(K), by striking
5 “House Committee on Education and the
6 Workforce and the Senate Committee on Labor
7 and Human Resources” and inserting “author-
8 izing committees”;

9 (B) in the matter following paragraph (2)
10 of subsection (g), by striking “Committee on
11 Labor and Human Resources of the Senate and
12 the Committee on Education and the Workforce
13 of the House of Representatives” and inserting
14 “authorizing committees”; and

15 (C) in subsection (n)(4), “Committee on
16 Education and the Workforce of the House of
17 Representatives and the Committee on Labor
18 and Human Resources of the Senate” and in-
19 serting “authorizing committees”;

20 (6) in section 428A (20 U.S.C. 1078–1)—

21 (A) in the matter preceding subparagraph
22 (A) of subsection (a)(4), by striking “Com-
23 mittee on Labor and Human Resources of the
24 Senate and the Committee on Education and

1 the Workforce of the House of Representatives”
2 and inserting “authorizing committees”; and

3 (B) in subsection (c)—

4 (i) in the matter preceding subpara-
5 graph (A) of paragraph (2), by striking
6 “Chairperson” and all that follows through
7 “House of Representatives” and inserting
8 “Chairpersons and Ranking Members of
9 the authorizing committees”;

10 (ii) in paragraph (3), by striking
11 “Chairperson” and all that follows through
12 “House of Representatives” and inserting
13 “Chairpersons and Ranking Members of
14 the authorizing committees”; and

15 (iii) in paragraph (5), by striking
16 “Chairperson” and all that follows through
17 “House of Representatives” and inserting
18 “Chairpersons and Ranking Members of
19 the authorizing committees”;

20 (7) in section 432 (20 U.S.C. 1082)—

21 (A) in subsection (f)(1)(C), by striking
22 “the Committee on Education and the Work-
23 force of the House of Representatives or the
24 Committee on Labor and Human Resources of

1 the Senate” and inserting “either of the author-
2 izing committees”; and

3 (B) in the matter following subparagraph
4 (D) of subsection (n)(3), by striking “Com-
5 mittee on Education and the Workforce of the
6 House of Representatives and the Committee
7 on Labor and Human Resources of the Senate”
8 and inserting “authorizing committees”;

9 (8) in section 437(c)(1) (20 U.S.C. 1087(c)(1)),
10 by striking “Committee on Education and the Work-
11 force of the House of Representatives and the Com-
12 mittee on Labor and Human Resources of the Sen-
13 ate” and inserting “authorizing committees”;

14 (9) in section 439 (20 U.S.C. 1087-2)—

15 (A) in subsection (d)(1)(E)(iii), by striking
16 “advise the Chairman” and all that follows
17 through “House of Representatives” and insert-
18 ing “advise the Chairpersons and Ranking
19 Members of the authorizing committees”;

20 (B) in subsection (r)—

21 (i) in paragraph (3), by striking “in-
22 form the Chairman” and all that follows
23 through “House of Representatives,” and
24 inserting “inform the Chairpersons and

1 Ranking Members of the authorizing com-
2 mittees”;

3 (ii) in paragraph (5)(B), by striking
4 “plan, to the Chairman” and all that fol-
5 lows through “Education and Labor” and
6 inserting “plan, to the Chairpersons and
7 Ranking Members of the authorizing com-
8 mittees”;

9 (iii) in paragraph (6)(B)—

10 (I) by striking “plan, to the
11 Chairman” and all that follows
12 through “House of Representatives”
13 and inserting “plan, to the Chair-
14 persons and Ranking Members of the
15 authorizing committees”; and

16 (II) by striking “Chairmen and
17 ranking minority members of such
18 Committees” and inserting “Chair-
19 persons and Ranking Members of the
20 authorizing committees”;

21 (iv) in paragraph (8)(C), by striking
22 “implemented to the Chairman” and all
23 that follows through “House of Represent-
24 atives, and” and inserting “implemented to

1 the Chairpersons and Ranking Members of
2 the authorizing committees, and to”; and

3 (v) in the matter preceding subpara-
4 graph (A) of paragraph (10), by striking
5 “days to the Chairman” and all that fol-
6 lows through “Education and Labor” and
7 inserting “days to the Chairpersons and
8 Ranking Members of the authorizing com-
9 mittees”; and

10 (C) in subsection (s)(2)—

11 (i) in the matter preceding clause (i)
12 of subparagraph (A), by striking “Treas-
13 ury and to the Chairman” and all that fol-
14 lows through “House of Representatives”
15 and inserting “Treasury and to the Chair-
16 persons and Ranking Members of the au-
17 thorizing committees”; and

18 (ii) in subparagraph (B), by striking
19 “Treasury and to the Chairman” and all
20 that follows through “House of Represent-
21 atives” and inserting “Treasury and to the
22 Chairpersons and Ranking Members of the
23 authorizing committees”;

24 (10) in section 455(b)(8)(B) (20 U.S.C.
25 1087e(b)(8)(B)), by striking “Committee on Labor

1 and Human Resources of the Senate and the Com-
2 mittee on Education and the Workforce of the
3 House of Representatives” and inserting “author-
4 izing committees”;

5 (11) in section 482(d) (20 U.S.C. 1089(d)), by
6 striking “Committee on Labor and Human Re-
7 sources of the Senate and the Committee on Edu-
8 cation and Labor of the House of Representatives”
9 and inserting “authorizing committees”;

10 (12) in section 483(e) (20 U.S.C. 1090(e)), by
11 striking “Committee on Labor and Human Re-
12 sources of the Senate and the Committee on Edu-
13 cation and the Workforce of the House of Rep-
14 resentatives” and inserting “authorizing commit-
15 tees”;

16 (13) in section 485 (20 U.S.C. 1092)—

17 (A) in subsection (f)(5)(A), by striking
18 “Committee on Education and the Workforce of
19 the House of Representatives and the Com-
20 mittee on Labor and Human Resources of the
21 Senate” and inserting “authorizing commit-
22 tees”; and

23 (B) in subsection (g)(4)(B), by striking
24 “Committee on Education and the Workforce of
25 the House of Representatives and the Com-

1 committee on Labor and Human Resources of the
2 Senate” and inserting “authorizing commit-
3 tees”;

4 (14) in section 486 (20 U.S.C. 1093)—

5 (A) in subsection (e), by striking “Com-
6 mittee on Labor and Human Resources of the
7 Senate and the Committee on Education and
8 the Workforce of the House of Representatives”
9 and inserting “authorizing committees”; and

10 (B) in subsection (f)(3)—

11 (i) in the matter preceding clause (i)
12 of subparagraph (A), by striking “Com-
13 mittee on Labor and Human Resources of
14 the Senate and the Committee on Edu-
15 cation and the Workforce of the House of
16 Representatives” and inserting “author-
17 izing committees”; and

18 (ii) in the matter preceding clause (i)
19 of subparagraph (B), by striking “Com-
20 mittee on Labor and Human Resources of
21 the Senate and the Committee on Edu-
22 cation and the Workforce of the House of
23 Representatives” and inserting “author-
24 izing committees”;

1 (15) in section 487A(a)(5) (20 U.S.C.
 2 1094a(a)(5)), by striking “Committee on Labor and
 3 Human Resources of the Senate and the Committee
 4 on Education and the Workforce of the House of
 5 Representatives” and inserting “authorizing commit-
 6 tees”; and

7 (16) in section 498B(d) (20 U.S.C. 1099c-
 8 2(d))—

9 (A) in paragraph (1), by striking “Com-
 10 mittee on Labor and Human Resources of the
 11 Senate and the Committee on Education and
 12 the Workforce of the House of Representatives”
 13 and inserting “authorizing committees”; and

14 (B) in paragraph (2), by striking “Com-
 15 mittee on Labor and Human Resources of the
 16 Senate and the Committee on Education and
 17 the Workforce of the House of Representatives”
 18 and inserting “authorizing committees”.

19 **SEC. 7312. GENERAL DEFINITION OF INSTITUTION OF**
 20 **HIGHER EDUCATION.**

21 Section 101 (20 U.S.C. 1001) is amended—

22 (1) in subsection (a)(3), by inserting “, or
 23 awards a degree that is acceptable for admission to
 24 a graduate or professional degree program, subject

1 to the review and approval by the Secretary” after
 2 “such a degree”; and

3 (2) by striking subsection (b)(2) and inserting
 4 the following:

5 “(2) a public or nonprofit private educational
 6 institution in any State that, in lieu of the require-
 7 ment in subsection (a)(1), admits as regular stu-
 8 dents persons—

9 “(A) who meet the requirements of section
 10 484(d)(3);

11 “(B) who are beyond the age of compul-
 12 sory school attendance in the State in which the
 13 institution is located; or

14 “(C) who are dually or concurrently en-
 15 rolled in such institution and a secondary
 16 school.”.

17 **SEC. 7313. DEFINITION OF INSTITUTION OF HIGHER EDU-**
 18 **CATION FOR PURPOSES OF TITLE IV PRO-**
 19 **GRAMS.**

20 Section 102 (20 U.S.C. 1002) is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (2)(A)(i) and in-
 23 serting the following:

24 “(i) in the case of a graduate medical
 25 school located outside the United States—

1 “(I) at least 60 percent of those
2 enrolled in, and at least 60 percent of
3 the graduates of, the graduate med-
4 ical school outside the United States
5 were not persons described in section
6 484(a)(5) in the year preceding the
7 year for which a student is seeking a
8 loan under part B of title IV; and

9 “(II) at least 60 percent of the
10 individuals who were students or
11 graduates of the graduate medical
12 school outside the United States or
13 Canada (both nationals of the United
14 States and others) taking the exami-
15 nations administered by the Edu-
16 cational Commission for Foreign Med-
17 ical Graduates received a passing
18 score in the year preceding the year
19 for which a student is seeking a loan
20 under part B of title IV; or”;

21 (B) by striking paragraph (3) and insert-
22 ing the following:

23 “(3) LIMITATIONS BASED ON ENROLLMENT.—

24 An institution shall not be considered to meet the

1 definition of an institution of higher education in
2 paragraph (1) if such institution—

3 “(A) has a student enrollment in which
4 more than 25 percent of the students are incar-
5 cerated, except that the Secretary may waive
6 the limitation contained in this subparagraph
7 for a nonprofit institution that provides a 2- or
8 4-year program of instruction (or both) for
9 which the institution awards a bachelor’s de-
10 gree, or an associate’s degree or a postsec-
11 ondary diploma, respectively; or

12 “(B) has a student enrollment in which
13 more than 50 percent of the students do not
14 have a secondary school diploma or its recog-
15 nized equivalent, and does not provide a 2- or
16 4-year program of instruction (or both) for
17 which the institution awards a bachelor’s degree
18 or an associate’s degree, respectively, except
19 that the Secretary may waive the limitation
20 contained in this subparagraph if a nonprofit
21 institution demonstrates to the satisfaction of
22 the Secretary that the institution exceeds such
23 limitation because the institution serves,
24 through contracts with Federal, State, or local
25 government agencies, significant numbers of

1 students who do not have a secondary school di-
2 ploma or its recognized equivalent.”;

3 (C) by redesignating paragraphs (4), (5),
4 and (6), as paragraphs (5), (6), and (7), re-
5 spectively; and

6 (D) by inserting after paragraph (3) the
7 following:

8 “(4) LIMITATIONS BASED ON MODE OF DELIV-
9 ERY.—

10 “(A) IN GENERAL.—An institution shall
11 not be considered to meet the definition of an
12 institution of higher education in paragraph (1)
13 if such institution—

14 “(i) offers more than 50 percent of
15 such institution’s courses by correspond-
16 ence, unless the institution is an institution
17 that meets the definition in section 3(3)(C)
18 of the Carl D. Perkins Vocational and
19 Technical Education Act of 1998; or

20 “(ii) enrolls 50 percent or more of the
21 institution’s students in correspondence
22 courses, unless the institution is an institu-
23 tion that meets the definition in such sec-
24 tion 3(3)(C), except that the Secretary, at
25 the request of such institution, may waive

1 the applicability of this subparagraph to
2 such institution for good cause, as deter-
3 mined by the Secretary in the case of an
4 institution of higher education that pro-
5 vides a 2- or 4-year program of instruction
6 (or both) for which the institution awards
7 an associate or baccalaureate degree, re-
8 spectively.

9 “(B) DISTANCE EDUCATION PROGRAM ELI-
10 GIBILITY.—Notwithstanding subparagraph (A),
11 an institution of higher education, other than a
12 foreign institution, that offers education or
13 training programs principally through distance
14 education shall be considered to meet the defini-
15 tion of an institution of higher education in
16 paragraph (1) if such institution—

17 “(i) has been evaluated and deter-
18 mined (before or after the date of enact-
19 ment of the Higher Education Amend-
20 ments of 2005) to have the capability to
21 effectively deliver distance education pro-
22 grams by an accrediting agency or associa-
23 tion that—

24 “(I) is recognized by the Sec-
25 retary under title IV; and

1 “(II) has evaluation of distance
2 education programs within the scope
3 of its recognition, as described in sec-
4 tion 496(n)(3);

5 “(ii) is otherwise eligible to participate
6 in programs authorized under title IV;

7 “(iii) has not had its participation in
8 programs under title IV suspended or ter-
9 minated within the previous 5 years;

10 “(iv) has not had, or failed to resolve,
11 an audit finding or program review finding
12 under this Act during the 2 years pre-
13 ceding the year for which the determina-
14 tion is made that, following any appeal to
15 the Secretary, resulted in the institution
16 being required to repay an amount that is
17 equal to or greater than 25 percent of the
18 total funds the institution received under
19 the programs authorized under title IV for
20 the most recent award year; and

21 “(v) has met the requirements of sec-
22 tion 487(d), if applicable.

23 “(C) DEFINITION.—

24 “(i) IN GENERAL.—In this Act, except
25 as otherwise provided, the term ‘distance

1 education’ means a course or program that
2 uses 1 or more of the technologies de-
3 scribed in clause (ii) to—

4 “(I) deliver instruction to stu-
5 dents who are separated from the in-
6 structor; and

7 “(II) support regular and sub-
8 stantive interaction between the stu-
9 dents and the instructor, either syn-
10 chronously or asynchronously.

11 “(ii) INCLUSIONS.—For the purposes
12 of clause (i), the technologies used may
13 include—

14 “(I) the Internet;

15 “(II) one-way and two-way trans-
16 missions through open broadcast,
17 closed circuit, cable, microwave,
18 broadband lines, fiber optics, satellite,
19 or wireless communications devices;

20 “(III) audio conferencing; or

21 “(IV) video cassette, DVDs, and
22 CD-ROMs, provided that they are
23 used in a course in conjunction with
24 the technologies listed in subclauses
25 (I) through (III).”; and

1 (2) in subsection (b)(1)—

2 (A) in subparagraph (D), by inserting
3 “and” after the semicolon;

4 (B) in subparagraph (E), by striking “;
5 and” and inserting a period; and

6 (C) by striking subparagraph (F).

7 **SEC. 7314. PROTECTION OF STUDENT SPEECH AND ASSO-**
8 **CIATION RIGHTS.**

9 Section 112 (20 U.S.C. 1011a) is amended—

10 (1) in subsection (a)—

11 (A) by inserting “(1)” before “It is the
12 sense”; and

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

14 “(2) It is the sense of Congress that—

15 “(A) the diversity of institutions and edu-
16 cational missions is one of the key strengths of
17 American higher education;

18 “(B) individual colleges and universities have
19 different missions and each institution should design
20 its academic program in accordance with its edu-
21 cational goals;

22 “(C) within the context of institutional mission,
23 a college should facilitate the free and open ex-
24 change of ideas;

1 “(D) students should not be intimidated, har-
2 assed, discouraged from speaking out, or discrimi-
3 nated against;

4 “(E) students should be treated equally and
5 fairly; and

6 “(F) nothing in this paragraph shall be con-
7 strued to modify, change, or infringe upon any con-
8 stitutionally protected religious liberty, freedom, ex-
9 pression, or association.”; and

10 (2) in subsection (b)(1), by inserting “, pro-
11 vided that the imposition of such sanction is done
12 objectively and fairly” after “higher education”.

13 **SEC. 7315. NATIONAL ADVISORY COMMITTEE ON INSTITU-**
14 **TIONAL QUALITY AND INTEGRITY.**

15 Section 114(g) (20 U.S.C. 1011c(g)) is amended by
16 striking “September 30, 2004” and inserting “September
17 30, 2011”.

18 **SEC. 7316. DRUG AND ALCOHOL ABUSE PREVENTION.**

19 Section 120 (20 U.S.C. 1011i) is amended by striking
20 subsections (e) and (f) and inserting the following:

21 “(e) GRANTS DIRECTED AT REDUCING HIGHER
22 EDUCATION DRUG AND ALCOHOL ABUSE.—

23 “(1) AUTHORIZATION OF PROGRAM.—The Sec-
24 retary may award grants to eligible entities to enable
25 the entities to reduce the rate of drug use, underage

1 alcohol use, and binge drinking among students at
2 institutions of higher education.

3 “(2) APPLICATIONS.—An eligible entity that de-
4 sires to receive a grant under this subsection shall
5 submit an application to the Secretary at such time,
6 in such manner, and accompanied by such informa-
7 tion as the Secretary may require. Each application
8 shall include—

9 “(A) a description of how the eligible enti-
10 ty will work to enhance an existing, or where
11 none exists to build a, statewide coalition;

12 “(B) a description of how the eligible enti-
13 ty will target underage students in the State;

14 “(C) a description of how the eligible enti-
15 ty intends to ensure that the statewide coalition
16 is actually implementing the purpose described
17 in paragraph (1) and moving toward the
18 achievement indicators described in paragraph
19 (4);

20 “(D) a list of the members of the statewide
21 coalition or interested parties involved in the
22 work of the eligible entity;

23 “(E) a description of how the eligible enti-
24 ty intends to work with State agencies on sub-
25 stance abuse prevention and education;

1 “(F) the anticipated impact of funds pro-
2 vided under this subsection in reducing the
3 rates of drug abuse and underage alcohol use;

4 “(G) outreach strategies, including ways in
5 which the eligible entity proposes to—

6 “(i) reach out to students;

7 “(ii) promote the purpose described in
8 paragraph (1);

9 “(iii) address the range of needs of
10 the students and the surrounding commu-
11 nities; and

12 “(iv) address community norms for
13 underage students regarding drug and al-
14 cohol use; and

15 “(H) such additional information as re-
16 quired by the Secretary.

17 “(3) USES OF FUNDS.—Each eligible entity
18 that receives a grant under this subsection shall use
19 the grant funds to carry out the activities described
20 in such entity’s application submitted pursuant to
21 paragraph (2).

22 “(4) ACCOUNTABILITY.—On the date on which
23 the Secretary first publishes a notice in the Federal
24 Register soliciting applications for grants under this
25 subsection, the Secretary shall include in the notice

1 achievement indicators for the program authorized
2 under this subsection. The achievement indicators
3 shall be designed—

4 “(A) to measure the impact that the state-
5 wide coalitions assisted under this subsection
6 are having on the institutions of higher edu-
7 cation and the surrounding communities, in-
8 cluding changes in the number of alcohol and
9 drug-related abuse incidents of any kind (in-
10 cluding violations, physical assaults, sexual as-
11 saults, reports of intimidation, disruptions of
12 school functions, disruptions of student studies,
13 mental health referrals, illnesses, or deaths);

14 “(B) to measure the quality and accessi-
15 bility of the programs or information offered by
16 the statewide coalitions; and

17 “(C) to provide such other measures of
18 program impact as the Secretary determines
19 appropriate.

20 “(5) SUPPLEMENT NOT SUPPLANT.—Grant
21 funds provided under this subsection shall be used to
22 supplement, and not supplant, Federal and non-Fed-
23 eral funds available for carrying out the activities
24 described in this subsection.

25 “(6) DEFINITIONS.—In this subsection:

1 “(A) ELIGIBLE ENTITY.—The term ‘eligi-
2 ble entity’ means a State, an institution of
3 higher education as defined in section 102, or
4 a nonprofit entity.

5 “(B) INSTITUTION OF HIGHER EDU-
6 CATION.—The term ‘institution of higher edu-
7 cation’ has the meaning given the term in sec-
8 tion 101(a).

9 “(C) STATE.—The term ‘State’ means
10 each of the 50 States, the District of Columbia,
11 and the Commonwealth of Puerto Rico.

12 “(D) STATEWIDE COALITION.—The term
13 ‘statewide coalition’ means a coalition that—

14 “(i) includes—

15 “(I) institutions of higher edu-
16 cation within a State; and

17 “(II) a nonprofit group, a com-
18 munity anti-drug or underage drink-
19 ing prevention coalition, or another
20 substance abuse prevention group
21 within a State; and

22 “(ii) works toward lowering alcohol
23 abuse rates by targeting underage students
24 at institutions of higher education through-

1 out the State and in the surrounding com-
2 munities.

3 “(E) SURROUNDING COMMUNITY.—The
4 term ‘surrounding community’ means the
5 community—

6 “(i) that surrounds an institution of
7 higher education participating in a state-
8 wide coalition;

9 “(ii) where the students from the in-
10 stitution of higher education take part in
11 the community; and

12 “(iii) where students from the institu-
13 tion of higher education live in off-campus
14 housing.

15 “(7) ADMINISTRATIVE EXPENSES.—Not more
16 than 5 percent of a grant awarded under this sub-
17 section may be expended for administrative ex-
18 penses.

19 “(8) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated to carry out
21 this subsection such sums as may be necessary for
22 fiscal year 2006 and each of the 5 succeeding fiscal
23 years.”.

24 **SEC. 7317. PRIOR RIGHTS AND OBLIGATIONS.**

25 Section 121(a) (20 U.S.C. 1011j(a)) is amended—

1 (1) in paragraph (1), by striking “1999” and
2 inserting “2006”; and

3 (2) in paragraph (2), by striking “1999” and
4 inserting “2006”.

5 **SEC. 7318. COST OF HIGHER EDUCATION.**

6 Section 131 (20 U.S.C. 1015) is amended—

7 (1) by striking subsection (b) and inserting the
8 following:

9 “(b) COLLEGE CONSUMER INFORMATION.—

10 “(1) IN GENERAL.—The Secretary shall make
11 available to the public the information described in
12 paragraph (2), in a form that enables the public to
13 compare the information among institutions of high-
14 er education. Such information shall be made avail-
15 able for each of the categories described in para-
16 graph (3) and updated annually.

17 “(2) INFORMATION.—The information de-
18 scribed in this paragraph is the following:

19 “(A) Tuition and fees for a first-time, full-
20 time undergraduate student.

21 “(B) Cost of attendance for a first-time,
22 full-time undergraduate student.

23 “(C) The average annual cost of attend-
24 ance for a first-time, full-time undergraduate
25 student for the preceding periods of 5 and 10

1 academic years preceding the year for which the
2 information is made available under this sub-
3 section, or if data are not available for such
4 academic years, data for as many of such aca-
5 demic years as are available.

6 “(D) The percentage of full-time under-
7 graduate students receiving financial assistance,
8 including—

9 “(i) Federal grants;

10 “(ii) State and local grants;

11 “(iii) institutional grants; and

12 “(iv) loans to students.

13 “(E) The average amount of financial aid
14 received by students from sources described in
15 clauses (i) through (iv) of subparagraph (D).

16 “(F) Graduation rates, as described in sec-
17 tion 485(a)(1)(L).

18 “(G) A ranking of the dollar and percent-
19 age increases in tuition and fees for all institu-
20 tions of higher education for which data are
21 available in each of the categories described in
22 paragraph (3).

23 “(3) CATEGORIES.—The categories described in
24 this paragraph are as follows:

25 “(A) All institutions of higher education.

1 “(B) 4-year public, degree-granting, insti-
2 tutions of higher education.

3 “(C) 2-year public, degree-granting, insti-
4 tutions of higher education.

5 “(D) 4-year, nonprofit, private, degree-
6 granting institutions of higher education.

7 “(E) 2-year, nonprofit, private, degree-
8 granting institutions of higher education.

9 “(F) 4-year, for-profit, private, degree-
10 granting institutions of higher education.

11 “(G) 2-year, for-profit, private, degree-
12 granting institutions of higher education.

13 “(H) Less than 2-year, for-profit, private
14 institutions of higher education.

15 “(4) STANDARD DEFINITIONS.—In carrying out
16 this section, the Secretary shall use the standard
17 definitions developed under subsection (a)(3).”; and

18 (2) in subsection (c)—

19 (A) in paragraph (1), by inserting “be con-
20 ducted on an annual basis and” after “Such
21 study shall”;

22 (B) in paragraph (2)—

23 (i) in subparagraph (B), by striking
24 “and” after the semicolon;

1 (ii) in subparagraph (C), by striking
2 the period and inserting a semicolon; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(D) the average cost of attending an in-
6 stitution of higher education, disaggregated by
7 category, as described in subsection (b)(3);

8 “(E) the average annual cost of attending
9 an institution of higher education for the peri-
10 ods of 5 and 10 academic years preceding the
11 year for which the study is conducted (or if
12 data are not available for such academic years,
13 data for as many of such academic years as are
14 available), disaggregated by category, as de-
15 scribed in subsection (b)(3); and

16 “(F) the assistance provided to institutions
17 of higher education by each State.”;

18 (C) in paragraph (3)—

19 (i) in the paragraph heading, by strik-
20 ing “FINAL” and inserting “ANNUAL”;

21 (ii) by striking “a report” and insert-
22 ing “an annual report”; and

23 (iii) by striking “not later than Sep-
24 tember 30, 2002” and inserting “and the
25 public”; and

1 (D) by striking paragraph (4) and insert-
2 ing the following:

3 “(4) HIGHER EDUCATION COST INDEX.—The
4 Bureau of Labor Statistics, in consultation with the
5 Commissioner of Education Statistics, shall develop
6 a higher education cost index that tracks inflation
7 changes in the relevant costs associated with higher
8 education.”.

9 **SEC. 7319. PERFORMANCE-BASED ORGANIZATION FOR THE**
10 **DELIVERY OF FEDERAL STUDENT FINANCIAL**
11 **ASSISTANCE.**

12 Section 141 (20 U.S.C. 1018) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by striking “oper-
15 ational” and inserting “administrative and
16 oversight”; and

17 (B) in paragraph (2)(D), by striking “of
18 the operational functions” and inserting “and
19 administration”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) in subparagraph (A), by striking
23 “the information systems administered by
24 the PBO, and other functions performed
25 by the PBO” and inserting “the Federal

1 student financial assistance programs au-
2 thorized under title IV”; and

3 (ii) by striking subparagraph (C) and
4 inserting the following:

5 “(C) assist the Chief Operating Officer in
6 identifying goals for—

7 “(i) the administration of the systems
8 used to administer the Federal student fi-
9 nancial assistance programs authorized
10 under title IV; and

11 “(ii) the updating of such systems to
12 current technology.”; and

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A), by striking “administration of
16 the information and financial systems that
17 support” and inserting “the administration
18 of Federal”;

19 (ii) in subparagraph (A)—

20 (I) in the matter preceding clause

21 (i), by striking “of the delivery system
22 for Federal student assistance” and
23 inserting “for the Federal student as-
24 sistance programs authorized under
25 title IV”;

1 (II) by striking clauses (i) and
2 (ii) and inserting the following:

3 “(i) the collection, processing, and
4 transmission of data to students, institu-
5 tions, lenders, State agencies, and other
6 authorized parties;

7 “(ii) the design and technical speci-
8 fications for software development and pro-
9 curement for systems supporting the stu-
10 dent financial assistance programs author-
11 ized under title IV;”;

12 (III) in clause (iii), by striking
13 “delivery” and inserting “administra-
14 tion”;

15 (IV) in clause (iv)—

16 (aa) by inserting “the” after
17 “supporting”; and

18 (bb) by striking “and” after
19 the semicolon;

20 (V) in clause (v), by striking
21 “systems that support those pro-
22 grams.” and inserting “the adminis-
23 tration of the Federal student assist-
24 ance programs authorized under title
25 IV; and”; and

1 (VI) by adding at the end the fol-
2 lowing:

3 “(vi) ensuring the integrity of the stu-
4 dent assistance programs authorized under
5 title IV.”; and

6 (iii) in subparagraph (B), by striking
7 “operations and services” and inserting
8 “activities and functions”; and

9 (3) in subsection (c)—

10 (A) in paragraph (1)(C)—

11 (i) in clause (iii), by striking “infor-
12 mation and delivery”; and

13 (ii) in clause (iv)—

14 (I) by striking “Developing an”
15 and inserting “Developing”; and

16 (II) by striking “delivery and in-
17 formation system” and inserting “sys-
18 tems”;

19 (B) in paragraph (2)—

20 (i) in subparagraph (A), by inserting
21 “the” after “PBO and”; and

22 (ii) in subparagraph (B), by striking
23 “Officer” and inserting “Officers”; and

24 (C) in paragraph (3), by inserting “stu-
25 dents,” after “consult with”;

1 (4) in subsection (d)—

2 (A) in paragraph (1), by striking the sec-
3 ond sentence; and

4 (B) in paragraph (5)—

5 (i) in subparagraph (B), by striking
6 “paragraph (2)” and inserting “paragraph
7 (4)”; and

8 (ii) in subparagraph (C), by striking
9 “this”;

10 (5) in subsection (f)—

11 (A) in paragraph (2), by striking “to bor-
12 rowers” and inserting “to students, bor-
13 rowers,”; and

14 (B) in paragraph (3)(A), by striking
15 “(1)(A)” and inserting “(1)”;

16 (6) in subsection (g)(3), by striking “not more
17 than 25”;

18 (7) in subsection (h), by striking “organiza-
19 tional effectiveness” and inserting “effectiveness”;

20 (8) by striking subsection (i);

21 (9) by redesignating subsection (j) as sub-
22 section (i); and

23 (10) in subsection (i) (as redesignated by para-
24 graph (9)), by striking “, including transition costs”.

1 **SEC. 7320. PROCUREMENT FLEXIBILITY.**

2 Section 142 (20 U.S.C. 1018a) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1)—

5 (i) by striking “for information sys-
6 tems supporting the programs authorized
7 under title IV”; and

8 (ii) by striking “and” after the semi-
9 colon;

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) through the Chief Operating Officer—

14 “(A) to the maximum extent practicable,
15 utilize procurement systems that streamline op-
16 erations, improve internal controls, and enhance
17 management; and

18 “(B) assess the efficiency of such systems
19 and assess such systems’ ability to meet PBO
20 requirements.”;

21 (2) by striking subsection (c)(2) and inserting
22 the following:

23 “(2) **FEE FOR SERVICE ARRANGEMENTS.**—The
24 Chief Operating Officer shall, when appropriate and
25 consistent with the purposes of the PBO, acquire
26 services related to the functions set forth in section

1 141(b)(2) from any entity that has the capability
2 and capacity to meet the requirements set by the
3 PBO. The Chief Operating Officer is authorized to
4 pay fees that are equivalent to those paid by other
5 entities to an organization that provides services
6 that meet the requirements of the PBO, as deter-
7 mined by the Chief Operating Officer.”;

8 (3) in subsection (d)(2)(B), by striking “on
9 Federal Government contracts”;

10 (4) in subsection (g)—

11 (A) in paragraph (4)(A)—

12 (i) in the subparagraph heading, by
13 striking “SOLE SOURCE.—” and inserting
14 “SINGLE-SOURCE BASIS.—”; and

15 (ii) by striking “sole-source” and in-
16 sserting “single-source”; and

17 (B) in paragraph (7), by striking “sole-
18 source” and inserting “single-source”;

19 (5) in subsection (h)(2)(A), by striking “sole-
20 source” and inserting “single-source”; and

21 (6) in subsection (l), by striking paragraph (3)
22 and inserting the following:

23 “(3) SINGLE-SOURCE BASIS.—The term ‘single-
24 source basis’, with respect to an award of a contract,
25 means that the contract is awarded to a source after

1 soliciting an offer or offers from, and negotiating
 2 with, only such source (although such source is not
 3 the only source in the marketplace capable of meet-
 4 ing the need) because such source is the most advan-
 5 tageous source for purposes of the award.”.

6 **CHAPTER 3—TEACHER QUALITY**

7 **ENHANCEMENT**

8 **SEC. 7331. TEACHER QUALITY ENHANCEMENT GRANTS FOR** 9 **STATES AND PARTNERSHIPS.**

10 Part A of title II (20 U.S.C. 1021 et seq.) is amended
 11 to read as follows:

12 **“PART A—TEACHER QUALITY ENHANCEMENT**

13 **GRANTS FOR STATES AND PARTNERSHIPS**

14 **“SEC. 201. PURPOSES; DEFINITIONS.**

15 “(a) PURPOSES.—The purposes of this part are to—

16 “(1) improve student achievement;

17 “(2) improve the quality of the current and fu-
 18 ture teaching force by improving the preparation of
 19 prospective teachers and enhancing professional de-
 20 velopment activities;

21 “(3) hold institutions of higher education ac-
 22 countable for preparing highly qualified teachers;
 23 and

1 “(4) recruit qualified individuals, including mi-
 2 norities and individuals from other occupations, into
 3 the teaching force.

4 “(b) DEFINITIONS.—In this part:

5 “(1) ARTS AND SCIENCES.—The term ‘arts and
 6 sciences’ means—

7 “(A) when referring to an organizational
 8 unit of an institution of higher education, any
 9 academic unit that offers 1 or more academic
 10 majors in disciplines or content areas cor-
 11 responding to the academic subject areas in
 12 which teachers provide instruction; and

13 “(B) when referring to a specific academic
 14 subject area, the disciplines or content areas in
 15 which academic majors are offered by the arts
 16 and sciences organizational unit.

17 “(2) CHILDREN FROM LOW-INCOME FAMI-
 18 LIES.—The term ‘children from low-income families’
 19 means children as described in section 1124(c)(1)(A)
 20 of the Elementary and Secondary Education Act of
 21 1965.

22 “(3) EARLY CHILDHOOD EDUCATION PRO-
 23 GRAM.—The term ‘early childhood education pro-
 24 gram’ means a Head Start program or an Early
 25 Head Start program carried out under the Head

1 Start Act (42 U.S.C. 9831 et seq.), a State licensed
2 or regulated child care program or school, or a State
3 prekindergarten program that serves children from
4 birth through kindergarten and that addresses the
5 children’s cognitive (including language, early lit-
6 eracy, and pre-numeracy), social, emotional, and
7 physical development.

8 “(4) EARLY CHILDHOOD EDUCATOR.—The
9 term ‘early childhood educator’ means an individual
10 with primary responsibility for the education of chil-
11 dren in an early childhood education program.

12 “(5) EDUCATIONAL SERVICE AGENCY.—The
13 term ‘educational service agency’ has the meaning
14 given such term in section 9101 of the Elementary
15 and Secondary Education Act of 1965.

16 “(6) EXEMPLARY TEACHER.—The term ‘exem-
17 plary teacher’ has the meaning given such term in
18 section 9101 of the Elementary and Secondary Edu-
19 cation Act of 1965.

20 “(7) HIGH-NEED LOCAL EDUCATIONAL AGEN-
21 CY.—The term ‘high-need local educational agency’
22 means a local educational agency or educational
23 service agency—

24 “(A)(i) that serves not fewer than 10,000
25 children from low-income families;

1 “(ii) for which not less than 20 percent of
2 the children served by the agency are children
3 from low-income families; or

4 “(iii) with a total of less than 600 students
5 in average daily attendance at the schools that
6 are served by the agency and all of whose
7 schools are designated with a school locale code
8 of 7 or 8, as determined by the Secretary; and

9 “(B)(i) for which there is a high percent-
10 age of teachers not teaching in the academic
11 subject areas or grade levels in which the teach-
12 ers were trained to teach; or

13 “(ii) for which there is a high teacher
14 turnover rate or a high percentage of teachers
15 with emergency, provisional, or temporary cer-
16 tification or licensure.

17 “(8) HIGHLY QUALIFIED.—The term ‘highly
18 qualified’ has the meaning given such term in sec-
19 tion 9101 of the Elementary and Secondary Edu-
20 cation Act of 1965 and, with respect to special edu-
21 cation teachers, in section 602 of the Individuals
22 with Disabilities Education Act.

23 “(9) PROFESSIONAL DEVELOPMENT.—The
24 term ‘professional development’ has the meaning

1 given such term in section 9101 of the Elementary
2 and Secondary Education Act of 1965.

3 “(10) SCIENTIFICALLY BASED READING RE-
4 SEARCH.—The term ‘scientifically based reading re-
5 search’ has the meaning given such term in section
6 1208 of the Elementary and Secondary Education
7 Act of 1965.

8 “(11) SCIENTIFICALLY BASED RESEARCH.—
9 The term ‘scientifically based research’ has the
10 meaning given such term in section 9101 of the Ele-
11 mentary and Secondary Education Act of 1965.

12 “(12) TEACHER MENTORING.—The term
13 ‘teacher mentoring’ means mentoring of teachers
14 through an established or implemented program—

15 “(A) that includes qualifications for men-
16 tors;

17 “(B) that provides training for mentors;

18 “(C) that provides regular and ongoing op-
19 portunities for mentors and mentees to observe
20 each other’s teaching methods in classroom set-
21 tings during the school day;

22 “(D) in which the mentoring is provided by
23 a colleague who teaches in the same field,
24 grade, or subject as the mentee; and

25 “(E) that includes—

1 “(i) common planning time or regu-
2 larly scheduled collaboration with teachers
3 in the teachers’ same field, grade, or sub-
4 ject area; and

5 “(ii) additional professional develop-
6 ment opportunities.

7 “(13) TEACHING SKILLS.—The term ‘teaching
8 skills’ means the ability to—

9 “(A) increase student achievement;

10 “(B) effectively convey and explain aca-
11 demic subject matter;

12 “(C) employ strategies that—

13 “(i) are based on scientifically based
14 research;

15 “(ii) are specific to academic subject
16 matter; and

17 “(iii) focus on identification and tai-
18 loring of academic instruction to students’
19 specific learning needs, particularly stu-
20 dents with disabilities, students who are
21 limited English proficient, and students
22 who are gifted and talented;

23 “(D) conduct ongoing assessment of stu-
24 dent learning;

25 “(E) effectively manage a classroom;

1 “(F) communicate and work with parents
2 and guardians, and involve parents and guard-
3 ians in their children’s education; and

4 “(G) in the case of an early childhood edu-
5 cator, use age appropriate strategies and prac-
6 tices for children in early childhood education
7 programs.

8 **“SEC. 202. STATE GRANTS.**

9 “(a) IN GENERAL.—From amounts made available
10 under section 209(a)(1) for a fiscal year, the Secretary
11 is authorized to award grants under this section, on a
12 competitive basis, to eligible States to enable the eligible
13 States to carry out the activities described in subsections
14 (d) and (e).

15 “(b) ELIGIBLE STATE.—

16 “(1) DEFINITION.—In this part, the term ‘eligi-
17 ble State’ means—

18 “(A) the Governor of a State; or

19 “(B) in the case of a State for which the
20 constitution or law of such State designates an-
21 other individual, entity, or agency in the State
22 to be responsible for teacher certification or li-
23 censure and preparation activity, such indi-
24 vidual, entity, or agency.

1 “(2) CONSULTATION.—The Governor or the in-
 2 dividual, entity, or agency designated under para-
 3 graph (1)(B) shall consult with the Governor, State
 4 board of education, State educational agency, State
 5 agency for higher education, or other applicable
 6 State entities (including the State agency responsible
 7 for early childhood education), as appropriate, with
 8 respect to the activities assisted under this section,
 9 including the development of the grant application
 10 and implementation of the activities.

11 “(3) CONSTRUCTION.—Nothing in this sub-
 12 section shall be construed to negate or supersede the
 13 legal authority under State law of any State agency,
 14 State entity, or State public official over programs
 15 that are under the jurisdiction of the agency, entity,
 16 or official.

17 “(c) APPLICATION.—To be eligible to receive a grant
 18 under this section, an eligible State shall submit an appli-
 19 cation to the Secretary that—

20 “(1) meets the requirement of this section;

21 “(2) demonstrates that the eligible State is in
 22 full compliance with—

23 “(A) sections 206(b) and 207; and

24 “(B) if applicable, sections 207(b) and
 25 208, as such sections were in effect on the day

1 before the date of enactment of the Higher
2 Education Amendments of 2005;

3 “(3) includes a description of how the eligible
4 State intends to use funds provided under this sec-
5 tion;

6 “(4) includes measurable objectives for the use
7 of the funds provided under this section;

8 “(5) describes how funded activities will—

9 “(A) reduce shortages, if any, of—

10 “(i) highly qualified general and spe-
11 cial education teachers, including in low-in-
12 come urban and rural areas and in high-
13 need academic subject areas; and

14 “(ii) fully competent early childhood
15 educators; and

16 “(B) be consistent with State, local, and
17 other education reform activities that promote
18 effective teaching skills and student academic
19 achievement and consistent with State early
20 learning standards for early childhood education
21 programs, including how funded activities will
22 support carrying out the applicable require-
23 ments of the eligible State under sections 1111
24 and 1119 of the Elementary and Secondary
25 Education Act of 1965, and section 612(a)(14)

1 of the Individuals with Disabilities Education
2 Act;

3 “(6) contains an assurance that the eligible
4 State will carry out each of the intended uses of
5 grant funds described in paragraph (3);

6 “(7) describes the eligible State’s—

7 “(A) current capacity to measure the effec-
8 tiveness of teacher preparation programs and
9 professional development activities within the
10 State using available statewide data;

11 “(B) activities to enhance or expand the
12 integration of existing data systems to better
13 measure the effectiveness of teacher preparation
14 programs and professional development activi-
15 ties within the State; or

16 “(C) if such data systems do not exist,
17 plans for the development of an integrated
18 statewide data system to measure the effective-
19 ness of teacher preparation programs and pro-
20 fessional development activities within the State
21 using available statewide data; and

22 “(8) contains such other information and assur-
23 ances as the Secretary may require.

24 “(d) REQUIRED USES OF FUNDS.—An eligible State
25 that receives a grant under this section shall use the grant

1 funds to reform teacher preparation requirements, to co-
2 ordinate with State activities under section 2113(c) of the
3 Elementary and Secondary Education Act of 1965 and
4 subsections (a) and (b) of section 654 of the Individuals
5 with Disabilities Education Act, and to ensure that cur-
6 rent and prospective teachers are highly qualified, by car-
7 rying out each of the following activities:

8 “(1) REFORMS.—Ensuring that all teacher
9 preparation programs in the State are preparing
10 current or prospective teachers to become highly
11 qualified, to understand scientifically based research
12 and its applicability, and to use technology effec-
13 tively, including use of instructional techniques to
14 improve student academic achievement, by assisting
15 such programs—

16 “(A) in retraining faculty;

17 “(B) in designing (or redesigning) teacher
18 preparation programs so that such programs—

19 “(i) are based on rigorous academic
20 content and scientifically based research
21 (including scientifically based reading re-
22 search), and aligned with challenging State
23 academic content standards;

24 “(ii) promote effective teaching skills;

25 and

1 “(iii) promote understanding of effective instructional strategies for students
2 with special needs, including students with
3 disabilities, students who are limited
4 English proficient, and students who are
5 gifted and talented;
6

7 “(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in relevant academic content areas to ensure a successful combination of training in both teaching and such content;
8
9
10
11
12

13 “(D) in developing high-quality, rigorous clinical experiences (that include student teaching experience) in which students participate while enrolled in a teacher preparation program, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities; and
14
15
16
17
18
19

20 “(E) in collecting and using data, in collaboration with institutions of higher education, schools, and local educational agencies, on teacher retention rates, by school, to evaluate and strengthen the effectiveness of the State’s teacher support system.
21
22
23
24
25

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
18 examine—

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
4 licensure—

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
8 of 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(e)(2) (20 U.S.C. 1059d(e)(2)) is
22 amended—

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
 20 amended—

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 following:

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
2 regarding—

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
14 regarding—

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
17 regarding—

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
9 regarding—

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
20 specifying—

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
5 consideration—

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 igible 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”; 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 **Subchapter B—Federal Family Education**
2 **Loan Program**

3 **SEC. 7381. EXTENSION OF AUTHORITIES.**

4 (a) FEDERAL INSURANCE LIMITATIONS.—Section
5 424(a) (20 U.S.C. 1074(a)) is amended—

6 (1) by striking “2004” and inserting “2012”;

7 and

8 (2) by striking “2008” and inserting “2016”.

9 (b) GUARANTEED LOANS.—Section 428(a)(5) (20
10 U.S.C. 1078(a)(5)) is amended—

11 (1) by striking “2004” and inserting “2012”;

12 and

13 (2) by striking “2008” and inserting “2016”.

14 (3) CONSOLIDATION LOANS.—Section 428C(e)

15 (20 U.S.C. 1078–3(e)) is amended by striking

16 “2004” and inserting “2012”.

17 **SEC. 7382. FEDERAL PAYMENTS TO REDUCE STUDENT IN-**
18 **TEREST COSTS.**

19 Section 428 (20 U.S.C. 1078) is amended—

20 (1) in subsection (b)(1)—

21 (A) in subparagraph (N)—

22 (i) in clause (i), by striking “or” after
23 the semicolon; and

24 (ii) by striking clause (ii) and insert-
25 ing the following:

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
7 amended—

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 (3) in subsection (d)—

13 (A) in paragraph (2), by striking “is an or-
14 phan or ward of the court” and inserting “is an
15 orphan, in foster care, or ward of the court or
16 was in foster care”;

17 (B) in paragraph (6), by striking “or”
18 after the semicolon;

19 (C) by redesignating paragraph (7) as
20 paragraph (8); and

21 (D) by inserting after paragraph (6) the
22 following:

23 “(7) has been verified as both a homeless child
24 or youth and an unaccompanied youth, as such
25 terms are defined in section 725 of the McKinney-

1 Vento Homeless Assistance Act (42 U.S.C. 11434a),
2 during the school year in which the application for
3 financial assistance is submitted, by—

4 “(A) a local educational agency liaison for
5 homeless children and youths, as designated
6 under section 722(g)(1)(J)(ii) of the McKinney-
7 Vento Homeless Assistance Act (42 U.S.C.
8 11432(g)(1)(J)(ii));

9 “(B) a director of a homeless shelter, tran-
10 sitional shelter, or independent living program;
11 or

12 “(C) a financial aid administrator; or”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to determinations of
15 need under part F of title IV for academic years beginning
16 on or after July 1, 2006.

17 **Subchapter G—General Provisions Relating**
18 **to Student Assistance**

19 **SEC. 7431. DEFINITIONS.**

20 Section 481 (20 U.S.C. 1088) is amended—

21 (1) in the second sentence of subsection (a)(2),
22 by inserting “and that measures program length in
23 credit hours or clock hours” after “baccalaureate de-
24 gree”; and

1 (2) in subsection (b), by adding at the end the
2 following:

3 “(3) For purposes of this title, the term ‘eligible pro-
4 gram’ includes an instructional program that utilizes di-
5 rect assessment of student learning or recognizes the di-
6 rect assessment of student learning by others, if such as-
7 sessment is consistent with the accreditation of the institu-
8 tion or program utilizing the results of the assessment,
9 in lieu of credit hours or clock hours as the measure of
10 student learning. In the case of a program being deter-
11 mined eligible for the first time under this paragraph, such
12 determination shall be made by the Secretary before such
13 program is considered to be an eligible program.”.

14 **SEC. 7432. COMPLIANCE CALENDAR.**

15 Section 482 (20 U.S.C. 1089) is amended by adding
16 at the end the following:

17 “(a) COMPLIANCE CALENDAR.—Prior to the begin-
18 ning of each award year, the Secretary shall provide to
19 institutions of higher education a list of all the reports
20 and disclosures required under this Act. The list shall
21 include—

22 “(1) the date each report or disclosure is re-
23 quired to be completed and to be submitted, made
24 available, or disseminated;

1 “(2) the required recipients of each report or
2 disclosure;

3 “(3) any required method for transmittal or
4 dissemination of each report or disclosure;

5 “(4) a description of the content of each report
6 or disclosure sufficient to allow the institution to
7 identify the appropriate individuals to be assigned
8 the responsibility for such report or disclosure;

9 “(5) references to the statutory authority, ap-
10 plicable regulations, and current guidance issued by
11 the Secretary regarding each report or disclosure;
12 and

13 “(6) any other information which is pertinent to
14 the content or distribution of the report or disclo-
15 sure.”.

16 **SEC. 7433. FORMS AND REGULATIONS.**

17 Section 483 (20 U.S.C. 1090) is amended—

18 (1) by striking subsections (a) and (b), and in-
19 serting the following:

20 “(a) COMMON FINANCIAL AID FORM DEVELOPMENT
21 AND PROCESSING.—

22 “(1) IN GENERAL.—The Secretary, in coopera-
23 tion with representatives of agencies and organiza-
24 tions involved in student financial assistance, shall
25 produce, distribute, and process free of charge com-

1 mon financial reporting forms as described in this
2 subsection to be used to determine the need and eli-
3 gibility of a student for financial assistance under
4 parts A through E of this title (other than under
5 subpart 4 of part A). The forms shall be made avail-
6 able to applicants in both paper and electronic for-
7 mats and shall be referred to (except as otherwise
8 provided in this subsection) as the ‘Free Application
9 for Federal Student Aid’, or ‘FAFSA’.

10 “(2) PAPER FORMAT.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (C), the Secretary shall produce, dis-
13 tribute, and process common forms in paper
14 format to meet the requirements of paragraph
15 (1). The Secretary shall develop a common
16 paper form for applicants who do not meet the
17 requirements of or do not wish to use the proc-
18 ess described in subparagraph (B).

19 “(B) EZ FAFSA.—

20 “(i) IN GENERAL.—The Secretary
21 shall develop and use a simplified paper
22 application form, to be known as the ‘EZ
23 FAFSA’, to be used for applicants meeting
24 the requirements under section 479(c).

1 “(ii) REDUCED DATA REQUIRE-
2 MENTS.—The EZ FAFSA shall permit an
3 applicant to submit for purposes of deter-
4 mining financial need and eligibility, only
5 the data elements required to make a de-
6 termination of student eligibility and
7 whether the applicant meets the require-
8 ments of section 479(c).

9 “(iii) STATE DATA.—The Secretary
10 shall include on the EZ FAFSA such data
11 items as may be necessary to award State
12 financial assistance, as provided under
13 paragraph (5), except the Secretary shall
14 not include a State’s data if that State
15 does not permit its applicants for State as-
16 sistance to use the EZ FAFSA.

17 “(iv) FREE AVAILABILITY AND PROC-
18 ESSING.—The provisions of paragraph (6)
19 shall apply to the EZ FAFSA, and the
20 data collected by means of the EZ FAFSA
21 shall be available to institutions of higher
22 education, guaranty agencies, and States
23 in accordance with paragraph (9).

1 “(v) TESTING.—The Secretary shall
2 conduct appropriate field testing on the
3 EZ FAFSA.

4 “(C) PHASING OUT THE FULL PAPER
5 FORM FOR STUDENTS WHO DO NOT MEET THE
6 REQUIREMENTS OF THE EZ FAFSA.—

7 “(i) IN GENERAL.—The Secretary
8 shall make all efforts to encourage all ap-
9 plicants to utilize the electronic forms de-
10 scribed in paragraph (3).

11 “(ii) PHASEOUT OF FULL PAPER
12 FAFSA.—Not later than 5 years after the
13 date of enactment of the Higher Education
14 Amendments of 2005, to the extent prac-
15 ticable, the Secretary shall phase out the
16 printing of the long paper form created
17 under subparagraph (A) and used by appli-
18 cants who do not meet the requirements of
19 the EZ FAFSA described in subparagraph
20 (B).

21 “(iii) AVAILABILITY OF FULL PAPER
22 FAFSA.—

23 “(I) IN GENERAL.—Both prior to
24 and after the phaseout described in
25 clause (ii), the Secretary shall main-

1 tain on the Internet printable versions
2 of the paper forms described in sub-
3 paragraphs (A) and (B).

4 “(II) ACCESSIBILITY.—The
5 printable versions described in sub-
6 clause (I) shall be made easily acces-
7 sible and downloadable to students on
8 the same Web site used to provide
9 students with the common electronic
10 forms described in paragraph (3).

11 “(III) SUBMISSION OF FORMS.—
12 The Secretary shall conduct a study
13 to determine the feasibility of using
14 downloaded forms to ensure sufficient
15 quality to meet the processing require-
16 ments of this section. Following the
17 completion of the study, the Secretary
18 shall enable, to the extent practicable,
19 students to submit a form described
20 in this clause that is downloaded from
21 the Internet and printed, in order to
22 meet the filing requirements of this
23 section and to receive financial assist-
24 ance under this title.

25 “(iv) USE OF SAVINGS.—

1 “(I) IN GENERAL.—The Sec-
2 retary shall utilize any realized sav-
3 ings accrued by phasing out the full
4 paper FAFSA and moving more appli-
5 cants to the common electronic forms,
6 to improve access to the electronic
7 forms for applicants meeting the re-
8 quirements of section 479(c).

9 “(II) REPORT.—The Secretary
10 shall report annually to the author-
11 izing committees on—

12 “(aa) the steps taken to im-
13 prove access to the common elec-
14 tronic forms for applicants meet-
15 ing the requirements of section
16 479(c); and

17 “(bb) the phaseout of the
18 long common paper form de-
19 scribed in subparagraph (A).

20 “(3) ELECTRONIC FORMAT.—

21 “(A) IN GENERAL.—The Secretary shall
22 produce, distribute, and process common forms
23 in electronic format and make such forms avail-
24 able through a broadly accessible website to
25 meet the requirements of paragraph (1). The

1 Secretary shall develop common electronic
2 forms for applicants who do not meet the re-
3 quirements of subparagraph (B). The Secretary
4 shall include on the common electronic forms
5 space for information that needs to be sub-
6 mitted from the applicant to be eligible for
7 State financial assistance, as provided under
8 paragraph (5), except the Secretary shall not
9 require applicants to complete data required by
10 any State other than the applicant's State of
11 residence. The Secretary shall use all available
12 technology to ensure that a student using a
13 common electronic form answers only the min-
14 imum number of questions necessary.

15 “(B) SIMPLIFIED ELECTRONIC APPLICA-
16 TIONS.—

17 “(i) IN GENERAL.—The Secretary
18 shall develop and use a simplified elec-
19 tronic application form to be used by appli-
20 cants meeting the requirements of section
21 479(c) and an additional, separate sim-
22 plified electronic application form to be
23 used by applicants meeting the require-
24 ments under section 479(b).

1 “(ii) REDUCED DATA REQUIRE-
2 MENTS.—The simplified electronic applica-
3 tion forms shall permit an applicant to
4 submit for purposes of determining finan-
5 cial need and eligibility, only the data ele-
6 ments required to make a determination of
7 student eligibility and whether the appli-
8 cant meets the requirements of subsection
9 (b) or (c) of section 479.

10 “(iii) STATE DATA.—The Secretary
11 shall include on the simplified electronic
12 application forms such data items as may
13 be necessary to award State financial as-
14 sistance, as provided under paragraph (5),
15 except the Secretary shall not require ap-
16 plicants to complete data required by any
17 State other than the applicant’s State of
18 residence and shall not include a State’s
19 data if such State does not permit its ap-
20 plicants for State assistance to use the
21 simplified electronic application form de-
22 scribed in this subparagraph.

23 “(iv) FREE AVAILABILITY AND PROC-
24 ESSING.—The provisions of paragraph (6)
25 shall apply to the simplified electronic ap-

1 plication forms, and the data collected by
2 means of the simplified electronic applica-
3 tion forms shall be available to institutions
4 of higher education, guaranty agencies,
5 and States in accordance with paragraph
6 (9).

7 “(v) TESTING.—The Secretary shall
8 conduct appropriate field testing on the
9 forms developed under this subparagraph.

10 “(C) USE OF FORMS.—Nothing in this
11 subsection shall be construed to prohibit the use
12 of the forms developed by the Secretary pursu-
13 ant to this paragraph by an eligible institution,
14 eligible lender, a guaranty agency, a State
15 grant agency, a private computer software pro-
16 vider, a consortium of such entities, or such
17 other entity as the Secretary may designate.
18 Data collected by the forms shall be used only
19 for the application, award, and administration
20 of aid awarded under this title, State aid, or aid
21 awarded by eligible institutions or such entities
22 as the Secretary may designate. No data col-
23 lected by such electronic version of the forms
24 shall be used for making final aid awards under
25 this title until such data have been processed by

1 the Secretary or a contractor or designee of the
2 Secretary, except as may be permitted under
3 this title.

4 “(D) PRIVACY.—The Secretary shall en-
5 sure that data collection under this paragraph
6 complies with section 552a of title 5, United
7 States Code, and that any entity using the elec-
8 tronic version of the forms developed by the
9 Secretary pursuant to this paragraph shall
10 maintain reasonable and appropriate adminis-
11 trative, technical, and physical safeguards to
12 ensure the integrity and confidentiality of the
13 information, and to protect against security
14 threats, or unauthorized uses or disclosures of
15 the information provided on the electronic
16 version of the forms.

17 “(E) SIGNATURE.—Notwithstanding any
18 other provision of this Act, the Secretary may
19 permit an electronic form under this paragraph
20 to be submitted without a signature, if a signa-
21 ture is subsequently submitted by the applicant
22 or if the applicant uses a personal identification
23 number provided by the Secretary under sub-
24 paragraph (F).

1 “(F) PERSONAL IDENTIFICATION NUM-
2 BERS AUTHORIZED.—The Secretary is author-
3 ized to assign to applicants personal identifica-
4 tion numbers—

5 “(i) to enable the applicants to use
6 such numbers as a signature for purposes
7 of completing a form under this paragraph;
8 and

9 “(ii) for any purpose determined by
10 the Secretary to enable the Secretary to
11 carry out this title.

12 “(4) STREAMLINED REAPPLICATION PROC-
13 ESS.—

14 “(A) IN GENERAL.—The Secretary shall
15 develop streamlined reapplication forms and
16 processes, including both paper and electronic
17 reapplication processes, consistent with the re-
18 quirements of this subsection, for an applicant
19 who applies for financial assistance under this
20 title in the next succeeding academic year sub-
21 sequent to an academic year in which such ap-
22 plicant applied for financial assistance under
23 this title.

1 “(B) MECHANISMS FOR REAPPLICATION.—

2 The Secretary shall develop appropriate mecha-
3 nisms to support reapplication.

4 “(C) IDENTIFICATION OF UPDATED

5 DATA.—The Secretary shall determine, in co-
6 operation with States, institutions of higher
7 education, and agencies and organizations in-
8 volved in student financial assistance, the data
9 elements that can be updated from the previous
10 academic year’s application.

11 “(D) REDUCED DATA AUTHORIZED.—

12 Nothing in this title shall be construed as lim-
13 iting the authority of the Secretary to reduce
14 the number of data elements required of re-
15 applicants.

16 “(E) ZERO FAMILY CONTRIBUTION.—Ap-

17 plicants determined to have a zero family con-
18 tribution pursuant to section 479(c) shall not
19 be required to provide any financial data in a
20 replication form, except that which is necessary
21 to determine eligibility under such section.

22 “(5) STATE REQUIREMENTS.—

23 “(A) IN GENERAL.—Except as provided in

24 paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii),
25 the Secretary shall include on the forms devel-

1 oped under this subsection, such State-specific
2 data items as the Secretary determines are nec-
3 essary to meet State requirements for need-
4 based State aid. Such items shall be selected in
5 consultation with State agencies in order to as-
6 sist in the awarding of State financial assist-
7 ance in accordance with the terms of this sub-
8 section, except as provided in paragraphs
9 (2)(B)(iii), (3)(A), and (3)(B)(iii). The number
10 of such data items shall not be less than the
11 number included on the form for the 2005–
12 2006 award year unless a State notifies the
13 Secretary that the State no longer requires
14 those data items for the distribution of State
15 need-based aid.

16 “(B) ANNUAL REVIEW.—The Secretary
17 shall conduct an annual review process to deter-
18 mine which data items the States require to
19 award need-based State aid.

20 “(C) ENCOURAGE USE OF FORMS.—The
21 Secretary shall encourage States to take such
22 steps as are necessary to encourage the use of
23 simplified application forms, including those de-
24 scribed in paragraphs (2)(B) and (3)(B), for

1 applicants who meet the requirements of sub-
2 section (b) or (c) of section 479.

3 “(D) FEDERAL REGISTER NOTICE.—The
4 Secretary shall publish, on an annual basis, a
5 notice in the Federal Register requiring States
6 to inform the Secretary—

7 “(i) if the State plans to use the
8 FAFSA to collect data to determine eligi-
9 bility for State need-based financial aid;

10 “(ii) of the State-specific data that
11 the State requires for delivery of State
12 need-based financial aid; and

13 “(iii) if the State agency is unable to
14 permit applicants to utilize the simplified
15 application forms described in paragraph
16 (2)(B) or (3)(B).

17 “(E) STATE NOTIFICATION TO THE SEC-
18 RETARY.—

19 “(i) IN GENERAL.—Each State agency
20 shall notify the Secretary—

21 “(I) whether the State permits
22 an applicant to file a form described
23 in paragraph (2)(B) or (3)(B) for
24 purposes of determining eligibility for
25 State need-based financial aid; and

1 “(II) of the State-specific data
2 that the State requires for delivery of
3 State need-based financial aid.

4 “(ii) ACCEPTANCE OF FORMS.—If a
5 State does not permit an applicant to file
6 a form described in paragraph (2)(B) or
7 (3)(B) for purposes of determining eligi-
8 bility for State need-based financial aid,
9 then the State shall notify the Secretary if
10 it is not permitted to do so because of
11 State law or agency policy. The notification
12 shall include an acknowledgment that
13 State-specific questions will not be included
14 on a form described in paragraph (2)(B)
15 or (3)(B).

16 “(iii) LACK OF NOTIFICATION BY THE
17 STATE.—If a State does not notify the
18 Secretary pursuant to clause (i), the Sec-
19 retary shall—

20 “(I) permit residents of that
21 State to complete simplified applica-
22 tion forms under paragraphs (2)(B)
23 and (3)(B); and

24 “(II) not require any resident of
25 such State to complete any data pre-

1 viously required by that State under
2 this section.

3 “(F) RESTRICTION.—The Secretary shall
4 not require applicants to complete any financial
5 or non-financial data that are not required by
6 the applicant’s State, except as may be required
7 for applicants who use the paper forms de-
8 scribed in subparagraphs (A) and (B) of para-
9 graph (2).

10 “(6) CHARGES TO STUDENTS AND PARENTS
11 FOR USE OF FORMS PROHIBITED.—The common fi-
12 nancial reporting forms prescribed by the Secretary
13 under this subsection shall be produced, distributed,
14 and processed by the Secretary, and no parent or
15 student shall be charged a fee by the Secretary, a
16 contractor, a third-party servicer or private software
17 provider, or any other public or private entity for the
18 collection, processing, or delivery of financial aid
19 through the use of such forms. The need and eligi-
20 bility of a student for financial assistance under
21 parts A through E (other than under subpart 4 of
22 part A) may be determined only by using a form de-
23 veloped by the Secretary pursuant to this subsection.
24 No student may receive financial assistance under
25 parts A through E (other than under subpart 4 of

1 part A), except by use of a form developed by the
2 Secretary pursuant to this subsection. No data col-
3 lected on a paper or electronic form or other docu-
4 ment that the Secretary determines was created to
5 replace a form prescribed under this subsection and
6 therefore violates the integrity of a simplified and
7 free financial aid application process and for which
8 a fee is charged shall be used to complete the form
9 prescribed under this subsection. No person, com-
10 mercial entity, or other entity shall request, obtain,
11 or utilize an applicant's personal identification num-
12 ber assigned under paragraph (3)(F) for purposes of
13 submitting an application on an applicant's behalf.

14 “(7) APPLICATION PROCESSING CYCLE.—The
15 Secretary shall—

16 “(A) enable students to submit forms cre-
17 ated under this subsection in order to meet the
18 filing requirements of this section and in order
19 to receive financial assistance from programs
20 under this title; and

21 “(B) enable students to submit forms cre-
22 ated under this subsection and initiate the proc-
23 essing of such forms under this subsection, as
24 early as practicable prior to January 1 of the
25 student's planned year of enrollment.

1 “(8) EARLY ESTIMATES.—The Secretary shall
2 permit an applicant to complete a form described in
3 this subsection in the years prior to enrollment in
4 order to obtain from the Secretary a nonbinding es-
5 timate of the applicant’s expected family contribu-
6 tion, as defined in section 473. Such applicant shall
7 be permitted to update information submitted on a
8 form described in this subsection using the process
9 required under paragraph (4).

10 “(9) DISTRIBUTION OF DATA.—Institutions of
11 higher education, guaranty agencies, and States
12 shall receive, without charge, the data collected by
13 the Secretary using the form developed pursuant to
14 this subsection for the purposes of processing loan
15 applications and determining need and eligibility for
16 institutional and State financial aid awards. Entities
17 designated by institutions of higher education, guar-
18 anty agencies, or States to receive such data shall be
19 subject to all the requirements of this section, unless
20 such requirements are waived by the Secretary.

21 “(10) THIRD PARTY SERVICERS AND PRIVATE
22 SOFTWARE PROVIDERS.—To the extent practicable
23 and in a timely manner, the Secretary shall provide,
24 to private organizations and consortia that develop
25 software used by institutions of higher education for

1 the administration of funds under this title, all the
2 necessary specifications that the organizations and
3 consortia must meet for the software the organiza-
4 tions and consortia develop, produce, and distribute
5 (including any diskette, modem, or network commu-
6 nications) which are so used. The specifications shall
7 contain record layouts for required data. The Sec-
8 retary shall develop in advance of each processing
9 cycle an annual schedule for providing such speci-
10 fications. The Secretary, to the extent practicable,
11 shall use means of providing such specifications, in-
12 cluding conferences and other meetings, outreach,
13 and technical support mechanisms (such as training
14 and printed reference materials). The Secretary
15 shall, from time to time, solicit from such organiza-
16 tions and consortia means of improving the support
17 provided by the Secretary.

18 “(11) PARENT’S SOCIAL SECURITY NUMBER
19 AND BIRTH DATE.—The Secretary is authorized to
20 include on the form developed under this subsection
21 space for the social security number and birth date
22 of parents of dependent students seeking financial
23 assistance under this title.”;

24 (2) by redesignating subsections (c) through (e)
25 as subsections (b) through (d), respectively;

1 (3) in subsection (c) (as redesignated by para-
2 graph (2)), by striking “that is authorized” and all
3 that follows through the period at the end and in-
4 serting “or other appropriate provider of technical
5 assistance and information on postsecondary edu-
6 cational services that is authorized under section
7 663(a) of the Individuals with Disabilities Education
8 Act. Not later than 2 years after the date of enact-
9 ment of the Higher Education Amendments of 2005,
10 the Secretary shall test and implement, to the extent
11 practicable, a toll-free telephone based system to
12 permit applicants who meet the requirements of
13 479(c) to submit an application over such system.”;
14 and

15 (4) by striking subsection (d) (as redesignated
16 by paragraph (2)) and inserting the following:

17 “(d) ASSISTANCE IN PREPARATION OF FINANCIAL
18 AID APPLICATION.—

19 “(1) PREPARATION AUTHORIZED.—Notwith-
20 standing any provision of this Act, an applicant may
21 use a preparer for consultative or preparation serv-
22 ices for the completion of the common financial re-
23 porting forms described in subsection (a) if the pre-
24 parer satisfies the requirements of this subsection.

1 “(2) PREPARER IDENTIFICATION.—Any com-
2 mon financial reporting form required to be made
3 under this title shall include the name, signature,
4 address or employer’s address, social security num-
5 ber or employer identification number, and organiza-
6 tional affiliation of the preparer of such common fi-
7 nancial reporting form.

8 “(3) ADDITIONAL REQUIREMENTS.—A preparer
9 that provides consultative or preparation services
10 pursuant to this subsection shall—

11 “(A) clearly inform individuals upon initial
12 contact (including advertising in clear and con-
13 spicuous language on the website of the pre-
14 parer, including by providing a link directly to
15 the website described in subsection (a)(3), if the
16 preparer provides such services through a
17 website) that the common financial reporting
18 forms that are required to determine eligibility
19 for financial assistance under parts A through
20 E (other than subpart 4 of part A) may be
21 completed for free via paper or electronic forms
22 provided by the Secretary;

23 “(B) refrain from producing or dissemi-
24 nating any form other than the forms produced
25 by the Secretary under subsection (a); and

1 “(C) not charge any fee to any individual
2 seeking such services who meets the require-
3 ments of subsection (b) or (c) of section 479.

4 “(4) SPECIAL RULE.—Nothing in this Act shall
5 be construed to limit preparers of the common finan-
6 cial reporting forms required to be made under this
7 title who meet the requirements of this subsection
8 from collecting source information from a student or
9 parent, including Internal Revenue Service tax
10 forms, in providing consultative and preparation
11 services in completing the forms.”.

12 **SEC. 7434. STUDENT ELIGIBILITY.**

13 Section 484 (20 U.S.C. 1091) is amended—

14 (1) in subsection (d), by adding at the end the
15 following:

16 “(4) The student shall be determined by the in-
17 stitution of higher education as having the ability to
18 benefit from the education or training offered by the
19 institution of higher education, upon satisfactory
20 completion of 6 credit hours or the equivalent
21 coursework that are applicable toward a degree or
22 certificate offered by the institution of higher edu-
23 cation.”;

24 (2) by striking subsection (l) and inserting the
25 following:

1 “(1) COURSES OFFERED THROUGH DISTANCE EDU-
2 CATION.—

3 “(1) RELATION TO CORRESPONDENCE
4 COURSES.—

5 “(A) IN GENERAL.—A student enrolled in
6 a course of instruction at an institution of high-
7 er education that is offered principally through
8 distance education and leads to a recognized
9 certificate, or associate, baccalaureate, or grad-
10 uate degree, conferred by such institution, shall
11 not be considered to be enrolled in correspond-
12 ence courses.

13 “(B) EXCEPTION.—An institution of high-
14 er education referred to in subparagraph (A)
15 shall not include an institution or school de-
16 scribed in section 3(3)(C) of the Carl D. Per-
17 kins Vocational and Technical Education Act of
18 1998.

19 “(2) RESTRICTION OR REDUCTIONS OF FINAN-
20 CIAL AID.—A student’s eligibility to receive grants,
21 loans, or work assistance under this title shall be re-
22 duced if a financial aid officer determines under the
23 discretionary authority provided in section 479A
24 that distance education results in a substantially re-
25 duced cost of attendance to such student.

1 “(3) SPECIAL RULE.—For award years prior to
 2 the date of enactment of this subsection, the Sec-
 3 retary shall not take any compliance, disallowance,
 4 penalty, or other action against a student or an eli-
 5 gible institution when such action arises out of such
 6 institution’s prior award of student assistance under
 7 this title if the institution demonstrates to the satis-
 8 faction of the Secretary that its course of instruction
 9 would have been in conformance with the require-
 10 ments of this subsection.

11 “(4) DEFINITION.—In this subsection, the term
 12 ‘distance education’ has the meaning given the term
 13 in section 102.”; and

14 (3) in subsection (r)—

15 (A) in the matter preceding the table, by
 16 inserting “of a controlled substance, while such
 17 student is enrolled in an institution of higher
 18 education and receiving financial assistance
 19 under this title,” after “the possession”;

20 (B) in the column heading of the first
 21 table, by inserting “**while the student is**
 22 **enrolled in an institution of higher**
 23 **education and receiving financial as-**
 24 **sistance under this title”** after “**posses-**
 25 **sion of a controlled substance”**; and

1 (C) by redesignating paragraph (3) as
2 paragraph (4); and

3 (D) by inserting after paragraph (2) the
4 following:

5 “(2) INTERACTION WITH FAFSA.—The Sec-
6 retary shall not require a student to provide infor-
7 mation regarding the student’s possession of a con-
8 trolled substance on the Free Application for Fed-
9 eral Student Aid described in section 483(a).”.

10 **SEC. 7435. STATUTE OF LIMITATIONS AND STATE COURT**
11 **JUDGMENTS.**

12 Section 484A (20 U.S.C. 1091a) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1), by striking “and”
15 after the semicolon;

16 (B) in paragraph (2), by striking the pe-
17 riod and inserting “; and”; and

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

19 “(3) in collecting any obligation arising from a
20 loan made under part E of this title, an institution
21 of higher education that has an agreement with the
22 Secretary pursuant to section 463(a) shall not be
23 subject to a defense raised by any borrower based on
24 a claim of infancy.”; and

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

1 “(d) SPECIAL RULE.—This section shall not apply in
 2 the case of a student who is deceased or to a deceased
 3 student’s estate or the estate of such student’s family. If
 4 a student is deceased, then the student’s estate or the es-
 5 tate of the student’s family shall not be required to repay
 6 any financial assistance under this title , including interest
 7 paid on the student’s behalf, collection costs, or other
 8 charges specified in this title.”.

9 **SEC. 7436. INSTITUTIONAL REFUNDS.**

10 Section 484B (20 U.S.C. 1091B) is amended—

11 (1) in subsection (a)—

12 (A) in the matter preceding clause (i) of
 13 paragraph (2)(A), by striking “a leave of” and
 14 inserting “1 or more leaves of”; and

15 (B) in paragraph (3)(C)(i), by striking
 16 “grant or loan assistance under this title” and
 17 inserting “grant assistance under subparts 1
 18 and 3 of part A, or loan assistance under parts
 19 B, D, and E,”;

20 (2) in subsection (b), by adding at the end the
 21 following:

22 “(4) TIME FRAME.—Not later than 45 days
 23 after the date of an institution’s determination that
 24 a student withdrew from the institution, the institu-
 25 tion shall—

1 “(A) return the amount required under
2 paragraph (1);

3 “(B) notify the student of the applicable
4 requirements regarding the overpayment of
5 grant and loan assistance and

6 “(C) notify the student of the student’s eli-
7 gibility for post-withdrawal disbursements.”;

8 (3) in subsection (c)(2), by striking “may deter-
9 mine the appropriate withdrawal date.” and insert-
10 ing “may determine—

11 (A) the appropriate withdrawal date; and

12 “(B) that the requirements of this section
13 do not apply to the student.”; and

14 (4) in subsection (d)(2), by striking “clock
15 hours—” and all that follows through the period and
16 inserting “clock hours scheduled to be completed by
17 the student in that period as of the day the student
18 withdrew.”.

19 **SEC. 7437. INSTITUTIONAL AND FINANCIAL ASSISTANCE**
20 **FOR STUDENTS.**

21 Section 485 (20 U.S.C. 1092) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

24 (i) in subparagraph (N), by striking
25 “and” after the semicolon;

1 (ii) in subparagraph (O), by striking the period
2 and inserting a semicolon; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(P) student body diversity at the institution,
6 including information on the percentage of enrolled,
7 full-time students who are—

8 “(i) male;

9 “(ii) female;

10 “(iii) from a low-income background; and

11 “(iv) a self-identified member of a major
12 racial or ethnic group;

13 “(Q) the placement in employment of, and
14 types of employment obtained by, graduates of
15 the institution’s degree or certificate programs,
16 gathered from such sources as alumni surveys,
17 student satisfaction surveys, the National Sur-
18 vey of Student Engagement, the Community
19 College Survey of Student Engagement, State
20 data systems, or other relevant sources; and

21 “(R) the types of graduate and profes-
22 sional education in which graduates of the insti-
23 tution’s 4-year degree programs enrolled, gath-
24 ered from such sources as alumni surveys, stu-
25 dent satisfaction surveys, the National Survey

1 of Student Engagement, State data systems, or
2 other relevant sources.”;

3 (B) by striking paragraph (4) and insert-
4 ing the following:

5 “(4) For purposes of this section, institutions
6 may—

7 “(A) exclude from the information dis-
8 closed in accordance with subparagraph (L) of
9 paragraph (1) the completion or graduation
10 rates of students who leave school to serve in
11 the Armed Forces, on official church missions,
12 or with a recognized foreign aid service of the
13 Federal Government; or

14 “(B) in cases where the students described
15 in subparagraph (A) represent 20 percent or
16 more of the certificate- or degree-seeking, full-
17 time, undergraduate students at the institution,
18 the institution may recalculate the completion
19 or graduation rates of such students by exclud-
20 ing from the calculation described in paragraph
21 (3) the time period such students were not en-
22 rolled due to their service in the Armed Forces,
23 on official church missions, or with a recognized
24 foreign aid service of the Federal Govern-
25 ment.”; and

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

2 “(7) The information disclosed under subparagraph
3 (L) of paragraph (1), or reported under subsection (e),
4 shall include information disaggregated by gender, by each
5 major racial and ethnic subgroup, and by low-income
6 background status as measured by Federal Pell Grant eli-
7 gibility, if the number of students in such subgroup or
8 with such status is sufficient to yield statistically reliable
9 information and reporting would not reveal personally
10 identifiable information about an individual student. If
11 such number is not sufficient for such purposes, then the
12 institution shall note that the institution enrolled too few
13 of such students to so disclose or report with confidence
14 and confidentiality.”;

15 (2) in subsection (b), by adding at the end the
16 following:

17 “(3) Each eligible institution shall, during the
18 exit interview required by this subsection, provide to
19 a borrower of a loan made under part B, D, or E
20 a clear and conspicuous notice describing the general
21 effects of using a consolidation loan to discharge the
22 borrower’s student loans, including—

23 “(A) the effects of consolidation on total
24 interest to be paid, fees to be paid, and length
25 of repayment;

1 “(B) the effects of consolidation on a bor-
2 rower’s underlying loan benefits, including loan
3 forgiveness, cancellation, and deferment;

4 “(C) the ability for the borrower to prepay
5 the loan, pay on a shorter schedule, and to
6 change repayment plans, and that borrower
7 benefit programs may vary among different
8 loan holders;

9 “(D) the tax benefits for which the bor-
10 rower may be eligible; and

11 “(E) the consequences of default.”;

12 (3) in subsection (d)(2)—

13 (A) by inserting “grant assistance, as well
14 as State” after “describing State”; and

15 (B) by inserting “and other means, includ-
16 ing through the Internet” before the period at
17 the end;

18 (4) in subsection (e), by striking paragraph (3)
19 and inserting the following:

20 “(3) For purposes of this subsection, institu-
21 tions may—

22 “(A) exclude from the reporting require-
23 ments under paragraphs (1) and (2) the com-
24 pletion or graduation rates of students and stu-
25 dent athletes who leave school to serve in the

1 Armed Forces, on official church missions, or
2 with a recognized foreign aid service of the Fed-
3 eral Government; or

4 “(B) in cases where the students described
5 in subparagraph (A) represent 20 percent or
6 more of the certificate- or degree-seeking, full-
7 time, undergraduate students at the institution,
8 the institution may calculate the completion or
9 graduation rates of such students by excluding
10 from the calculations described in paragraph
11 (1) the time period such students were not en-
12 rolled due to their service in the Armed Forces,
13 on official church missions, or with a recognized
14 foreign aid service of the Federal Govern-
15 ment.”;

16 (5) in the matter preceding subparagraph (A)
17 of subsection (f)(1), by inserting “, other than a for-
18 eign institution of higher education,” after “under
19 this title”; and

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

21 “(h) TRANSFER OF CREDIT POLICIES.—

22 “(1) DISCLOSURE.—Each institution of higher
23 education participating in any program under this
24 title shall publicly disclose in a readable and com-
25 prehensible manner the institution’s transfer of cred-

1 it policies which shall include a statement of the in-
2 stitution's current transfer of credit policies that in-
3 cludes, at a minimum—

4 “(A) a statement that transfer of credit
5 shall not be denied solely on the basis of the
6 agency or association that accredited such other
7 institution of higher education, if that agency
8 or association is recognized by the Secretary
9 pursuant to section 496 to be a reliable author-
10 ity as to the quality of the education or training
11 offered;

12 “(B) a list of institutions of higher edu-
13 cation with which the institution has established
14 an articulation agreement; and

15 “(C) the percentage of students at the in-
16 stitution who successfully transfer academic
17 credits, updated on an annual basis.

18 “(2) RULE OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed to—

20 “(A) authorize an officer or employee of
21 the Department to exercise any direction, su-
22 pervision, or control over the curriculum, pro-
23 gram of instruction, administration, or per-
24 sonnel of any institution of higher education, or
25 over any accrediting agency or association;

1 “(B) limit the application of the General
2 Education Provisions Act; or

3 “(C) create any legally enforceable right on
4 the part of a student to require an institution
5 of higher education to accept a transfer of cred-
6 it from another institution.”.

7 **SEC. 7438. NATIONAL STUDENT LOAN DATA SYSTEM.**

8 Section 485B(a) (20 U.S.C. 1092b(a)) is amended—

9 (1) by redesignating paragraphs (6) through
10 (10) as paragraphs (7) through (11), respectively;

11 (2) in paragraph (5) (as added by Public Law
12 101–610), by striking “effectiveness.” and inserting
13 “effectiveness;”; and

14 (3) by redesignating paragraph (5) (as added
15 by Public Law 101–234) as paragraph (6).

16 **SEC. 7439. EARLY AWARENESS OF FINANCIAL AID ELIGI-**
17 **BILITY.**

18 Part G of title IV (20 U.S.C. 1088 et seq.) is amend-
19 ed by inserting after section 485C (20 U.S.C. 1092c) the
20 following:

21 **“SEC. 485D. EARLY AWARENESS OF FINANCIAL AID ELIGI-**
22 **BILITY.**

23 “(a) IN GENERAL.—The Secretary shall implement,
24 in cooperation with States, institutions of higher edu-
25 cation, secondary schools, middle schools, early interven-

1 tion and outreach programs under this title, other agen-
2 cies and organizations involved in student financial assist-
3 ance and college access, public libraries, community cen-
4 ters, employers, and businesses, a comprehensive system
5 of early financial aid information in order to provide stu-
6 dents and families with early information about financial
7 aid and early estimates of such students' eligibility for fi-
8 nancial aid from multiple sources. Such system shall in-
9 clude the activities described in subsections (b) and (c).

10 “(b) COMMUNICATION OF AVAILABILITY OF AID AND
11 AID ELIGIBILITY.—

12 “(1) STUDENTS WHO RECEIVE BENEFITS.—The
13 Secretary shall—

14 “(A) make special efforts to notify stu-
15 dents who receive or are eligible to receive bene-
16 fits under Federal means-tested benefit pro-
17 grams (including the school lunch program es-
18 tablished under the Richard B. Russell National
19 School Lunch Act (42 U.S.C. 1751 et seq.), the
20 food stamp program under the Food Stamp Act
21 of 1977 (7 U.S.C. 2011 et seq.), and other such
22 programs as determined by the Secretary) of
23 such students' potential eligibility for a max-
24 imum Federal Pell Grant under subpart 1 of
25 part A; and

1 “(B) disseminate such informational mate-
2 rials as the Secretary determines necessary.

3 “(2) MIDDLE SCHOOL STUDENTS.—The Sec-
4 retary, in cooperation with States, institutions of
5 higher education, other organizations involved in col-
6 lege access and student financial aid, middle schools,
7 and programs under this title that serve middle
8 school students, shall make special efforts to notify
9 students and their parents of the availability of fi-
10 nancial aid under this title and, in accordance with
11 subsection (c), shall provide nonbinding estimates of
12 grant and loan aid that an individual may be eligible
13 for under this title upon completion of an applica-
14 tion form under section 483(a). The Secretary shall
15 ensure that such information is as accurate as pos-
16 sible and that such information is provided in an
17 age-appropriate format using dissemination mecha-
18 nisms suitable for students in middle school.

19 “(3) SECONDARY SCHOOL STUDENTS.—The
20 Secretary, in cooperation with States, institutions of
21 higher education, other organizations involved in col-
22 lege access and student financial aid, secondary
23 schools, and programs under this title that serve sec-
24 ondary school students, shall make special efforts to
25 notify students in secondary school and their par-

1 ents, as early as possible but not later than such
2 students' junior year of secondary school, of the
3 availability of financial aid under this title and, in
4 accordance with subsection (c), shall provide non-
5 binding estimates of the amounts of grant and loan
6 aid that an individual may be eligible for under this
7 title upon completion of an application form under
8 section 483(a). The Secretary shall ensure that such
9 information is as accurate as possible and that such
10 information is provided in an age-appropriate format
11 using dissemination mechanisms suitable for stu-
12 dents in secondary school.

13 “(4) ADULT LEARNERS.—The Secretary, in co-
14 operation with States, institutions of higher edu-
15 cation, other organizations involved in college access
16 and student financial aid, employers, workforce in-
17 vestment boards and public libraries, shall make spe-
18 cial efforts to provide individuals who would qualify
19 as independent students, as defined in section
20 480(d), with information regarding the availability
21 of financial aid under this title and, in accordance
22 with subsection (c), with nonbinding estimates of the
23 amounts of grant and loan aid that an individual
24 may be eligible for under this title upon completion

1 of an application form under section 483(a). The
2 Secretary shall ensure that such information—

3 “(A) is as accurate as possible;

4 “(B) includes specific information regard-
5 ing the availability of financial aid for students
6 qualified as independent students, as defined in
7 section 480(d); and

8 “(C) uses dissemination mechanisms suit-
9 able for adult learners.

10 “(5) PUBLIC AWARENESS CAMPAIGN.—Not
11 later than 2 years after the date of enactment of the
12 Higher Education Amendments of 2005, the Sec-
13 retary, in coordination with States, institutions of
14 higher education, early intervention and outreach
15 programs under this title, other agencies and organi-
16 zations involved in student financial aid, local edu-
17 cational agencies, public libraries, community cen-
18 ters, businesses, employers, employment services,
19 workforce investment boards, and movie theaters,
20 shall implement a public awareness campaign in
21 order to increase national awareness regarding the
22 availability of financial aid under this title. The pub-
23 lic awareness campaign shall disseminate accurate
24 information regarding the availability of financial
25 aid under this title and shall be implemented, to the

1 extent practicable, using a variety of media, includ-
2 ing print, television, radio and the Internet. The
3 Secretary shall design and implement the public
4 awareness campaign based upon relevant inde-
5 pendent research and the information and dissemi-
6 nation strategies found most effective in imple-
7 menting paragraphs (1) through (4).

8 “(c) AVAILABILITY OF NONBINDING ESTIMATES OF
9 FEDERAL FINANCIAL AID ELIGIBILITY.—

10 “(1) IN GENERAL.—The Secretary, in coopera-
11 tion with States, institutions of higher education,
12 and other agencies and organizations involved in stu-
13 dent financial aid, shall provide, via a printed form
14 and the Internet or other electronic means, the capa-
15 bility for individuals to determine easily, by entering
16 relevant data, nonbinding estimates of amounts of
17 grant and loan aid an individual may be eligible for
18 under this title upon completion and processing of
19 an application and enrollment in an institution of
20 higher education.

21 “(2) DATA ELEMENTS.—The Secretary, in co-
22 operation with States, institutions of higher edu-
23 cation, and other agencies and organizations in-
24 volved in student financial aid, shall determine the
25 data elements that are necessary to create a sim-

1 plified form that individuals can use to obtain easily
2 nonbinding estimates of the amounts of grant and
3 loan aid an individual may be eligible for under this
4 title.

5 “(3) QUALIFICATION TO USE SIMPLIFIED AP-
6 PLICATION.—The capability provided under this
7 paragraph shall include the capability to determine
8 whether the individual is eligible to submit a sim-
9 plified application form under paragraph (2)(B) or
10 (3)(B) of section 483(a).”.

11 **SEC. 7440. COLLEGE ACCESS INITIATIVE.**

12 Part G of title IV (20 U.S.C. 1088 et seq.) is further
13 amended by inserting after section 485D (as added by sec-
14 tion 7439) the following:

15 **“SEC. 485E. COLLEGE ACCESS INITIATIVE.**

16 “(a) STATE-BY-STATE INFORMATION.—The Sec-
17 retary shall direct each guaranty agency with which the
18 Secretary has an agreement under section 428(c) to pro-
19 vide to the Secretary the information necessary for the de-
20 velopment of Internet Web links and access for students
21 and families to a comprehensive listing of the postsec-
22 ondary education opportunities programs, publications,
23 Internet Web sites, and other services available in the
24 States for which such agency serves as the designated
25 guarantor.

1 “(b) GUARANTY AGENCY ACTIVITIES.—

2 “(1) PLAN AND ACTIVITY REQUIRED.—Each
3 guaranty agency with which the Secretary has an
4 agreement under section 428(c) shall develop a plan,
5 and undertake the activity, necessary to gather the
6 information required under subsection (a) and to
7 make such information available to the public and to
8 the Secretary in a form and manner prescribed by
9 the Secretary.

10 “(2) ACTIVITIES.—Each guaranty agency shall
11 undertake such activities as are necessary to pro-
12 mote access to postsecondary education for students
13 through providing information on college planning,
14 career preparation, and paying for college. The guar-
15 anty agency shall publicize such information and co-
16 ordinate such activities with other entities that pro-
17 vide or distribute such information in the States for
18 which such guaranty agency serves as the designated
19 guarantor.

20 “(3) FUNDING.—The activities required by this
21 section may be funded from the guaranty agency’s
22 Operating Fund established pursuant to section
23 422B and to the extent funds remain, from earnings
24 on the restricted account established pursuant to
25 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,
23 including—

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
10 amended—

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 redesignig-
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
17 engaged—

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
8 between—

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 redesi-
7 gated 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 redesi-
12 gated 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 “(iii) appoint members to represent
2 the various geographic regions of the
3 United States; and

4 “(iv) include representatives from mi-
5 nority institutions, as defined in section
6 365.”.

7 **SEC. 7703. STIPENDS.**

8 Section 703(a) (20 U.S.C. 1134b(a)) is amended by
9 striking “graduate fellowships” and inserting “Graduate
10 Research Fellowship Program”.

11 **SEC. 7704. AUTHORIZATION OF APPROPRIATIONS FOR THE**
12 **JACOB K. JAVITS FELLOWSHIP PROGRAM.**

13 Section 705 (20 U.S.C. 1134d) is amended by strik-
14 ing “\$30,000,000 for fiscal year 1999” and all that fol-
15 lows through the period and inserting “such sums as may
16 be necessary for fiscal year 2006 and each of the 5 suc-
17 ceeding fiscal years to carry out this subpart.”.

18 **SEC. 7705. INSTITUTIONAL ELIGIBILITY UNDER THE GRAD-**
19 **UATE ASSISTANCE IN AREAS OF NATIONAL**
20 **NEED PROGRAM.**

21 Section 712(b) (20 U.S.C. 1135a(b)) is amended to
22 read as follows:

23 “(b) DESIGNATION OF AREAS OF NATIONAL
24 NEED.—After consultation with appropriate Federal and
25 nonprofit agencies and organizations, including the Na-

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
6 consideration—

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
8 amended—

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
12 education—

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
20 section—

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
6 includes—

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 (1) in subsection (a), in the matter preceding
2 paragraph (1), by striking “fiscal years 1998
3 through 2003” and inserting “fiscal years 2006
4 through 2011”; and

5 (2) in subsection (b), by striking “fiscal years
6 1998 through 2003” and inserting “fiscal years
7 2006 through 2011”.

8 **Subchapter B—United States Institute of**
9 **Peace Act**

10 **SEC. 7921. UNITED STATES INSTITUTE OF PEACE ACT.**

11 (a) POWERS AND DUTIES.—Section 1705(b)(3) of
12 the United States Institute of Peace Act (22 U.S.C.
13 4604(b)(3)) is amended by striking “the Arms Control
14 and Disarmament Agency,”.

15 (b) BOARD OF DIRECTORS.—Section 1706 of the
16 United States Institute of Peace Act (22 U.S.C. 4605)
17 is amended—

18 (1) by striking “(b)(5)” each place the term ap-
19 pears and inserting “(b)(4)”; and

20 (2) in subsection (e), by adding at the end the
21 following:

22 “(5) The term of a member of the Board shall
23 not commence until the member is confirmed by the
24 Senate and sworn in as a member of the Board.”.

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 **Subtitle D—Hurricane Relief**

18 **SEC. 7947. FINDINGS.**

19 Congress finds the following:

20 (1) Hurricane Katrina has had a devastating
21 and unprecedented impact on students who attended
22 schools in the disaster areas.

23 (2) Due to the devastating effects of Hurricane
24 Katrina, a significant number of students have en-
25 rolled in schools outside of the area in which they

1 resided on August 22, 2005, including a significant
2 number of students who enrolled in non-public
3 schools because their parents chose to enroll them in
4 such schools.

5 (3) 372,000 students were displaced by Hurri-
6 cane Katrina. Approximately 700 schools have been
7 damaged or destroyed. Nine States each have more
8 than 1,000 of such displaced students enrolled in
9 their schools. In Texas alone, over 45,000 displaced
10 students have enrolled in schools.

11 (4) In response to these extraordinary condi-
12 tions, this subtitle creates a one-time only emergency
13 grant for the 2005–2006 school year tailored to the
14 needs and particular circumstances of students dis-
15 placed by Hurricane Katrina.

16 **SEC. 7948. IMMEDIATE AID TO RESTART SCHOOL OPER-**
17 **ATIONS.**

18 (a) **PURPOSE.**—It is the purpose of this section—

19 (1) to provide immediate and direct assistance
20 to local educational agencies in Louisiana, Mis-
21 sissippi, and Alabama that serve an area in which a
22 major disaster has been declared in accordance with
23 section 401 of the Robert T. Stafford Disaster Relief
24 and Emergency Assistance Act (42 U.S.C. 5170),
25 related to Hurricane Katrina;

1 (2) to assist school district administrators and
2 personnel of such agencies who are working to re-
3 start operations in elementary schools and secondary
4 schools served by such agencies; and

5 (3) to facilitate the re-opening of elementary
6 schools and secondary schools served by such agen-
7 cies and the re-enrollment of students in such
8 schools as soon as possible.

9 (b) PAYMENTS AND GRANTS AUTHORIZED.—From
10 amounts appropriated to carry out this subtitle, the Sec-
11 retary of Education is authorized to make payments, not
12 later than November 30, 2005, to State educational agen-
13 cies (as defined in section 9101 of the Elementary and
14 Secondary Education Act of 1965 (20 U.S.C. 7801 et
15 seq.)) in Louisiana, Mississippi, and Alabama to enable
16 such agencies to award grants to local educational agen-
17 cies serving an area in which a major disaster has been
18 declared in accordance with section 401 of the Robert T.
19 Stafford Disaster Relief and Emergency Assistance Act
20 (42 U.S.C. 5170), related to Hurricane Katrina.

21 (c) ELIGIBILITY AND CONSIDERATION.—In deter-
22 mining whether to award a grant under this section, or
23 the amount of the grant, the State educational agency
24 shall consider the following:

1 (1) The number of school-aged children served
2 by the local educational agency in the academic year
3 preceding the academic year for which the grant is
4 awarded.

5 (2) The severity of the impact of Hurricane
6 Katrina on the local educational agency and the ex-
7 tent of the needs in each local educational agency in
8 Louisiana, Mississippi, and Alabama that is in an
9 area in which a major disaster has been declared in
10 accordance with section 401 of the Robert T. Staf-
11 ford Disaster Relief and Emergency Assistance Act
12 (42 U.S.C. 5170), related to Hurricane Katrina.

13 (d) APPLICATIONS.—Each local educational agency
14 desiring a grant under this section shall submit an appli-
15 cation to the State educational agency at such time, in
16 such manner, and accompanied by such information as the
17 State educational agency may reasonably require to ensure
18 expedited and timely payment to the local educational
19 agency.

20 (e) USES OF FUNDS.—

21 (1) IN GENERAL.—A local educational agency
22 receiving a grant under this section shall use the
23 grant funds for—

24 (A) recovery of student and personnel
25 data, and other electronic information;

- 1 (B) replacement of school district informa-
2 tion systems, including hardware and software;
3 (C) financial operations;
4 (D) reasonable transportation costs;
5 (E) rental of mobile educational units and
6 leasing of neutral sites or spaces;
7 (F) initial replacement of instructional ma-
8 terials and equipment, including textbooks;
9 (G) redeveloping instructional plans, in-
10 cluding curriculum development;
11 (H) initiating and maintaining education
12 and support services; and
13 (I) such other activities related to the pur-
14 pose of this section that are approved by the
15 Secretary.

16 (2) USE WITH OTHER AVAILABLE FUNDS.—A
17 local educational agency receiving a grant under this
18 section may use the grant funds in coordination with
19 other Federal, State, or local funds available for the
20 activities described in paragraph (1).

21 (3) PROHIBITIONS.—Grant funds received
22 under this section shall not be used for any of the
23 following:

- 24 (A) Construction or major renovation of
25 schools.

1 (B) Payments to school administrators or
2 teachers who are not actively engaged in re-
3 starting or re-opening schools.

4 (f) SUPPLEMENT NOT SUPPLANT.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), funds made available under this section
7 shall be used to supplement, not supplant, any funds
8 made available through the Federal Emergency
9 Management Agency or through a State.

10 (2) EXCEPTION.—Paragraph (1) shall not pro-
11 hibit the provision of Federal assistance under this
12 section to an eligible educational agency that is or
13 may be entitled to receive, from another source, ben-
14 efits for the same purposes as under this section
15 if—

16 (A) such agency has not received such
17 other benefits by the time of application for
18 Federal assistance under this section; and

19 (B) such agency agrees to repay all dupli-
20 cative Federal assistance received to carry out
21 the purposes of this section.

22 **SEC. 7949. HOLD HARMLESS FOR LOCAL EDUCATIONAL**
23 **AGENCIES SERVING MAJOR DISASTER AREAS.**

24 In the case of a local educational agency that serves
25 an area in which the President has declared that a major

1 disaster exists in accordance with section 401 of the Rob-
 2 ert T. Stafford Disaster Relief and Emergency Assistance
 3 Act (42 U.S.C. 5170), related to Hurricane Katrina, the
 4 amount made available for such local educational agency
 5 under each of sections 1124, 1124A, 1125, and 1125A
 6 of the Elementary and Secondary Education Act of 1965
 7 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year
 8 2006 shall be not less than the amount made available
 9 for such local educational agency under each of such sec-
 10 tions for fiscal year 2005.

11 **SEC. 7950. TEACHER AND PARAPROFESSIONAL RECI-**
 12 **PROCITY; DELAY.**

13 (a) TEACHER AND PARAPROFESSIONAL RECI-
 14 PROCITY.—

15 (1) TEACHERS.—

16 (A) AFFECTED TEACHER.—In this sub-
 17 section, the term “affected teacher” means a
 18 teacher who is displaced due to Hurricane
 19 Katrina and relocates to a State that is dif-
 20 ferent from the State in which such teacher re-
 21 sided on August 22, 2005.

22 (B) IN GENERAL.—A local educational
 23 agency may consider an affected teacher hired
 24 by such agency who is not highly qualified in
 25 the State in which such agency is located to be

1 highly qualified, for purposes of section 1119 of
2 the Elementary and Secondary Education Act
3 of 1965 (20 U.S.C. 6319) and section
4 612(a)(14) of the Individuals with Disabilities
5 Education Act (20 U.S.C. 1412(a)(14)), for a
6 period not to exceed 1 year, if such teacher was
7 highly qualified, consistent with section
8 9101(23) of the Elementary and Secondary
9 Education Act of 1965 (20 U.S.C. 7801(23))
10 and section 602(10) of the Individuals with
11 Disabilities Education Act (20 U.S.C.
12 1401(10)), on or before August 22, 2005, in
13 the State in which such teacher resided on Au-
14 gust 22, 2005.

15 (2) PARAPROFESSIONAL.—

16 (A) AFFECTED PARAPROFESSIONAL.—In
17 this subsection, the term “affected paraprofes-
18 sional” means a paraprofessional who is dis-
19 placed due to Hurricane Katrina and relocates
20 to a State that is different from the State in
21 which such paraprofessional resided on August
22 22, 2005.

23 (B) IN GENERAL.—A local educational
24 agency may consider an affected paraprofes-
25 sional hired by such agency who does not sat-

1 isfy the requirements of section 1119(e) of the
2 Elementary and Secondary Education Act of
3 1965 (20 U.S.C. 6319(e)) in the State in which
4 such agency is located to satisfy such require-
5 ments, for purposes of such section, for a pe-
6 riod not to exceed 1 year, if such paraprofes-
7 sional satisfied such requirements on or before
8 August 22, 2005, in the State in which such
9 paraprofessional resided on August 22, 2005.

10 (b) DELAY.—The Secretary of Education may delay,
11 for a period not to exceed 1 year, applicability of the re-
12 quirements of paragraphs (2) and (3) of section 1119(a)
13 of the Elementary and Secondary Education Act of 1965
14 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C)
15 of the Individuals with Disabilities Education Act (20
16 U.S.C. 1412(a)(14)(C)) with respect to the States of Ala-
17 bama, Louisiana, and Mississippi (and local educational
18 agencies within the jurisdiction of such States), if any
19 such State or local educational agency demonstrates that
20 a failure to comply with such requirements is due to excep-
21 tional or uncontrollable circumstances, such as a natural
22 disaster or a precipitous and unforeseen decline in the fi-
23 nancial resources of local educational agencies within the
24 State.

1 **SEC. 7951. ASSISTANCE FOR HOMELESS YOUTH.**

2 (a) IN GENERAL.—The Secretary of Education shall
3 provide assistance to local educational agencies serving
4 homeless children and youths displaced by Hurricane
5 Katrina, consistent with section 723 of the McKinney-
6 Vento Homeless Assistance Act (42 U.S.C. 11433), in-
7 cluding identification, enrollment assistance, assessment
8 and school placement assistance, transportation, coordina-
9 tion of school services, supplies, referrals for health, men-
10 tal health, and other needs.

11 (b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

12 (1) EXCEPTION.—For purposes of providing as-
13 sistance under subsection (a), subsections (c) and
14 (e)(1) of section 722 and subsections (b) and (c) of
15 section 723 of the McKinney-Vento Homeless Assist-
16 ance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b)
17 and (c)) shall not apply.

18 (2) DISBURSEMENT.—The Secretary of Edu-
19 cation shall disburse funding provided under sub-
20 section (a) to State educational agencies based on
21 demonstrated need, as determined by the Secretary,
22 and such State educational agencies shall distribute
23 funds, that are appropriated under section 7958 and
24 available to carry out this section, to local edu-
25 cational agencies based on demonstrated need, for
26 the purposes of carrying out section 723 of the

1 McKinney-Vento Homeless Assistance Act (42
2 U.S.C. 11433).

3 **SEC. 7952. TEMPORARY EMERGENCY IMPACT AID FOR DIS-**
4 **PLACED STUDENTS.**

5 (a) TEMPORARY EMERGENCY IMPACT AID AUTHOR-
6 IZED.—

7 (1) AID TO STATE EDUCATIONAL AGENCIES.—

8 From amounts appropriated under this subtitle, the
9 Secretary of Education shall provide emergency im-
10 pact aid to State educational agencies to enable the
11 State educational agencies to make emergency im-
12 pact aid payments to eligible local educational agen-
13 cies and eligible BIA-funded schools to enable—

14 (A) such eligible local educational agencies
15 and schools to provide for the instruction of dis-
16 placed students served by such agencies and
17 schools; and

18 (B) such eligible local educational agencies
19 to make immediate impact aid payments to ac-
20 counts established on behalf of displaced stu-
21 dents (referred to in this section as “accounts”)
22 who are attending eligible non-public schools lo-
23 cated in the areas served by the eligible local
24 educational agencies.

1 (2) AID TO LOCAL EDUCATIONAL AGENCIES
2 AND BIA-FUNDED SCHOOLS.—A State educational
3 agency shall make emergency impact aid payments
4 to eligible local educational agencies and eligible
5 BIA-funded schools in accordance with subsection
6 (d).

7 (3) STATE EDUCATIONAL AGENCIES IN CER-
8 TAIN STATES.—In the case of the States of Lou-
9 isiana and Mississippi, the State educational agency
10 shall carry out the activities of eligible local edu-
11 cational agencies that are unable to carry out this
12 section, including eligible local educational agencies
13 in such States for which the State exercises the au-
14 thorities normally exercised by such local educational
15 agencies.

16 (b) DEFINITIONS.—In this section:

17 (1) DISPLACED STUDENT.—The term “dis-
18 placed student” means a student who enrolled in a
19 school (other than the school that the student was
20 enrolled in, or was eligible to be enrolled in, on Au-
21 gust 22, 2005) because such student resides or re-
22 sided on August 22, 2005, in an area for which a
23 major disaster has been declared in accordance with
24 section 401 of the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act (42 U.S.C. 5170),
2 related to Hurricane Katrina.

3 (2) ELIGIBLE LOCAL EDUCATIONAL AGEN-
4 CIES.—The term “eligible local educational agency”
5 means a local educational agency that serves—

6 (A) an elementary school or secondary
7 school (including a charter school) in which
8 there is enrolled a displaced student; or

9 (B) an area in which there is located an el-
10 ible non-public school.

11 (3) ELIGIBLE NON-PUBLIC SCHOOL.—The term
12 “eligible non-public school” means a non-public
13 school that—

14 (A) is accredited or licensed or otherwise
15 operates in accordance with State law;

16 (B) was in existence on August 22, 2005;
17 and

18 (C) serves a displaced student on behalf of
19 whom an application for an account has been
20 made pursuant to subsection (c)(2)(A)(ii).

21 (4) ELIGIBLE BIA-FUNDED SCHOOL.—In this
22 section, the term “eligible BIA-funded school”
23 means a school funded by the Bureau of Indian Af-
24 fairs in which there is enrolled a displaced student.

25 (c) APPLICATION.—

1 (1) STATE EDUCATIONAL AGENCY.—A State
2 educational agency that desires to receive emergency
3 impact aid under this section shall submit an appli-
4 cation to the Secretary of Education at such time,
5 in such manner, and accompanied by such informa-
6 tion as the Secretary of Education may reasonably
7 require, including—

8 (A) information on the total displaced stu-
9 dent child count of the State provided by eligi-
10 ble local educational agencies in the State and
11 eligible BIA-funded schools in the State under
12 paragraph (2);

13 (B) a description of the process for the
14 parent or guardian of a displaced student en-
15 rolled in a non-public school to indicate to the
16 eligible local educational agency serving the
17 area in which such school is located that the
18 student is enrolled in such school;

19 (C) a description of the procedure to be
20 used by an eligible local educational agency in
21 such State to provide payments to accounts;

22 (D) a description of the process to be used
23 by an eligible local educational agency in such
24 State to obtain—

1 (i) attestations of attendance of eligi-
2 ble displaced students from eligible non-
3 public schools, in order for the local edu-
4 cational agency to provide payments to ac-
5 counts on behalf of eligible displaced stu-
6 dents; and

7 (ii) attestations from eligible non-pub-
8 lic schools that accounts are used only for
9 the purposes described in subsection
10 (e)(2)(A); and

11 (E) the criteria, including family income,
12 used to determine the eligibility for and the
13 amount of assistance under this section pro-
14 vided on behalf of a displaced student attending
15 an eligible non-public school.

16 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-
17 FUNDED SCHOOLS.—An eligible local educational
18 agency or eligible BIA-funded school that desires an
19 emergency impact aid payment under this section
20 shall submit an application to the State educational
21 agency at such time, in such manner, and accom-
22 panied by such information as the State educational
23 agency may reasonably require, including docu-
24 mentation submitted quarterly for the 2005–2006
25 school year that indicates the following:

1 (A) In the case of an eligible local edu-
2 cational agency—

3 (i) the number of displaced students
4 enrolled in the elementary schools and sec-
5 ondary schools (including charter schools
6 and including the number of displaced stu-
7 dents who are served under part B of the
8 Individuals with Disabilities Education
9 Act) served by such agency for such quar-
10 ter; and

11 (ii) the number of displaced students
12 for whom the eligible local educational
13 agency expects to provide payments to ac-
14 counts under subsection (e)(2) (including
15 the number of displaced students who are
16 served under part B of the Individuals
17 with Disabilities Education Act) for such
18 quarter who meet the following criteria:

19 (I) The displaced student en-
20 rolled in an eligible non-public school
21 prior to the date of enactment of this
22 Act.

23 (II) The parent or guardian of
24 the displaced student chose to enroll
25 the student in the eligible non-public

1 school in which the student is en-
2 rolled.

3 (III) The parent or guardian of
4 the displaced student submitted an
5 application requesting that the agency
6 make a payment to an account on be-
7 half of the student.

8 (IV) The displaced student's tui-
9 tion and fees (and transportation ex-
10 penses, if any) for the 2005–2006
11 school year is waived or reimbursed
12 (by the eligible non-public school) in
13 an amount that is not less than the
14 amount of emergency impact aid pay-
15 ment provided on behalf of such stu-
16 dent under this section.

17 (B) In the case of an eligible BIA-funded
18 school, the number of displaced students, in-
19 cluding the number of displaced students who
20 are served under part B of the Individuals with
21 Disabilities Education Act (20 U.S.C. 1411 et
22 seq.), enrolled in such school for such quarter.

23 (3) DETERMINATION OF NUMBER OF DIS-
24 PLACED STUDENTS.—In determining the number of
25 displaced students for a quarter under paragraph

1 (2), an eligible local educational agency or eligible
2 BIA-funded school shall include in such number the
3 number of displaced students served during such
4 quarter prior to the date of enactment of this Act.

5 (d) AMOUNT OF EMERGENCY IMPACT AID.—

6 (1) AID TO STATE EDUCATIONAL AGENCIES.—

7 (A) IN GENERAL.—The amount of emer-
8 gency impact aid received by a State edu-
9 cational agency for the 2005–2006 school year
10 shall equal the sum of—

11 (i) the product of the number of dis-
12 placed students (who are not served under
13 part B of the Individuals with Disabilities
14 Education Act (20 U.S.C. 1411 et seq.)),
15 as determined by the eligible local edu-
16 cational agencies and eligible BIA-funded
17 schools in the State under subsection
18 (c)(2), times \$6,000; and

19 (ii) the product of the number of dis-
20 placed students who are served under part
21 B of the Individuals with Disabilities Edu-
22 cation Act, as determined by the eligible
23 local educational agencies and eligible BIA-
24 funded schools in the State under sub-
25 section (c)(2), times \$7,500.

1 (B) INSUFFICIENT FUNDS.—If the amount
2 available under this section to provide emer-
3 gency impact aid under this subsection is insuf-
4 ficient to pay the full amount that a State edu-
5 cational agency is eligible to receive under this
6 section, the Secretary of Education shall rat-
7 ably reduce the amount of such emergency im-
8 pact aid.

9 (2) AID TO ELIGIBLE LOCAL EDUCATIONAL
10 AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

11 (A) QUARTERLY INSTALLMENTS.—

12 (i) IN GENERAL.—A State educational
13 agency shall provide emergency impact aid
14 payments under this section on a quarterly
15 basis for the 2005–2006 school year by
16 such dates as determined by the Secretary
17 of Education. Such quarterly installment
18 payments shall be based on the number of
19 displaced students reported under sub-
20 section (c)(2) and in the amount deter-
21 mined under clause (ii).

22 (ii) PAYMENT AMOUNT.—Each quar-
23 terly installment payment under clause (i)
24 shall equal 25 percent of the sum of—

1 (I) the number of displaced stu-
2 dents (who are not served under part
3 B of the Individuals with Disabilities
4 Education Act (20 U.S.C. 1411 et
5 seq.)) reported by the eligible local
6 educational agency or eligible BIA-
7 funded school for such quarter (as de-
8 termined under subsection (c)(2))
9 times \$6,000; and

10 (II) the number of displaced stu-
11 dents who are served under part B of
12 the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1411 et seq.)
14 reported by the eligible local edu-
15 cational agency or eligible BIA-funded
16 school for such quarter (as deter-
17 mined under subsection (c)(2)) times
18 \$7,500.

19 (iii) **TIMELINE.**—The Secretary of
20 Education shall establish a timeline for
21 quarterly reporting on the number of dis-
22 placed students in order to make the ap-
23 propriate disbursements in a timely man-
24 ner.

1 (iv) INSUFFICIENT FUNDS.—If, for
2 any quarter, the amount available under
3 this section to make payments under this
4 subsection is insufficient to pay the full
5 amount that an eligible local educational
6 agency or eligible BIA-funded school is eli-
7 gible to receive under this section, the
8 State educational agency shall ratably re-
9 duce the amount of such payments.

10 (B) MAXIMUM PAYMENT TO ACCOUNT.—In
11 providing quarterly payments to an account for
12 the 2005–2006 school year on behalf of a dis-
13 placed student for each quarter that such stu-
14 dent is enrolled in a non-public school in the
15 area served by the agency under subsection
16 (e)(2), an eligible local educational agency may
17 provide not more than 4 quarterly payments to
18 such account, and the aggregate amount of
19 such payments shall not exceed the lesser of—

20 (i)(I) in the case of a displaced stu-
21 dent who is not served under part B of the
22 Individuals with Disabilities Education Act
23 (20 U.S.C. 1411 et seq.), \$6,000; or

24 (II) in the case of a displaced student
25 who is served under part B of the Individ-

1 uals with Disabilities Education Act,
2 \$7,500; or

3 (ii) the cost of tuition and fees (and
4 transportation expenses, if any) at the
5 non-public school for the 2005–2006 school
6 year.

7 (e) USE OF FUNDS.—

8 (1) DISPLACED STUDENTS IN PUBLIC
9 SCHOOLS.—An eligible local educational agency or
10 eligible BIA-funded school receiving emergency im-
11 pact aid payments under this section shall use the
12 payments to provide instructional opportunities for
13 displaced students who enroll in elementary schools
14 and secondary schools (including charter schools)
15 served by such agency or in such a school, and for
16 other expenses incurred as a result of the agency or
17 school serving displaced students, which uses may
18 include—

19 (A) paying the compensation of personnel,
20 including teacher aides, in schools enrolling dis-
21 placed students;

22 (B) identifying and acquiring curricular
23 material, including the costs of providing addi-
24 tional classroom supplies, and mobile edu-
25 cational units and leasing sites or spaces;

1 (C) basic instructional services for such
2 students, including tutoring, mentoring, or aca-
3 demic counseling;

4 (D) reasonable transportation costs;

5 (E) health services (including counseling
6 and mental health services); and

7 (F) education and support services.

8 (2) DISPLACED STUDENTS IN NON-PUBLIC
9 SCHOOLS.—

10 (A) IN GENERAL.—An eligible local edu-
11 cational agency that receives emergency impact
12 aid payments under this section and that serves
13 an area in which there is located an eligible
14 non-public school shall, at the request of the
15 parent or guardian of a displaced student who
16 meets the criteria described in subsection
17 (c)(2)(A)(ii) and who enrolled in a non-public
18 school in an area served by the agency, use
19 such emergency impact aid payment to provide
20 payment on a quarterly basis (but not to exceed
21 the total amount specified in subsection
22 (d)(2)(B) for the 2005–2006 school year) to an
23 account on behalf of such displaced student,
24 which payment shall be used to assist in paying
25 for any of the following:

1 (i) Paying the compensation of per-
2 sonnel, including teacher aides, in the non-
3 public school, which funds shall not be
4 used for religious instruction, proselytiza-
5 tion, or worship.

6 (ii) Identifying and acquiring cur-
7 ricular material, including the costs of pro-
8 viding additional classroom supplies (which
9 shall be secular, neutral, and shall not
10 have a religious component), and mobile
11 educational units and leasing sites or
12 spaces, which shall not be used for reli-
13 gious instruction, proselytization, or wor-
14 ship.

15 (iii) Basic instructional services, in-
16 cluding tutoring, mentoring, or academic
17 counseling, which services shall be secular
18 and neutral and shall not be used for reli-
19 gious instruction, proselytization, or wor-
20 ship.

21 (iv) Reasonable transportation costs.

22 (v) Health services (including coun-
23 seling and mental health services), which
24 services shall be secular and neutral and

1 shall not be used for religious instruction,
2 proselytization, or worship.

3 (vi) Education and support services,
4 which services shall be secular and neutral
5 and shall not be used for religious instruc-
6 tion, proselytization, or worship.

7 (B) VERIFICATION OF ENROLLMENT.—Be-
8 fore providing a quarterly payment to an ac-
9 count under subparagraph (A), the eligible local
10 educational agency shall verify with the parent
11 or guardian of a displaced student that such
12 displaced student is enrolled in the non-public
13 school.

14 (3) PROVISION OF SPECIAL EDUCATION AND
15 RELATED SERVICES.—

16 (A) IN GENERAL.—In the case of a dis-
17 placed student who is served under part B of
18 the Individuals with Disabilities Education Act
19 (20 U.S.C. 1411 et seq.), any payment made on
20 behalf of such student to an eligible local edu-
21 cational agency or any payment available in an
22 account for such student, shall be used to pay
23 the cost of providing the student with special
24 education and related services consistent with

1 the Individuals with Disabilities Education Act
2 (20 U.S.C. 1400 et seq.).

3 (B) SPECIAL RULE.—

4 (i) RETENTION.—Notwithstanding
5 any other provision of this section, if an el-
6 igible local educational agency provides
7 services to a displaced student attending
8 an eligible non-public school under section
9 612(a)(10) of the Individuals with Disabil-
10 ities Education Act (20 U.S.C.
11 1412(a)(10)), the eligible local educational
12 agency may retain a portion of the assist-
13 ance received under this section for such
14 student to pay the cost of providing such
15 services.

16 (ii) DETERMINATION OF PORTION.—

17 (I) GUIDELINES.—Each State
18 shall issue guidelines that specify the
19 portion of the assistance that an eligi-
20 ble local educational agency in the
21 State may retain under this subpara-
22 graph. Each State shall apply such
23 guidelines in a consistent manner
24 throughout the State.

1 (II) DETERMINATION OF POR-
 2 TION.—The portion specified in the
 3 guidelines shall be based on cus-
 4 tomary costs of providing services
 5 under such section 612(a)(10) for the
 6 local educational agency.

7 (C) DEFINITIONS.—In this paragraph:

8 (i) SPECIAL EDUCATION; RELATED
 9 SERVICES.—The terms “special education”
 10 and “related services” have the meaning
 11 given such terms in section 602 of the In-
 12 dividuals with Disabilities Education Act
 13 (20 U.S.C. 1401).

14 (ii) INDIVIDUALIZED EDUCATION PRO-
 15 GRAM.—The term “individualized edu-
 16 cation program” has the meaning given
 17 the term in section 614(d)(2) of the Indi-
 18 viduals with Disabilities Education Act (20
 19 U.S.C. 1414(d)(2)).

20 (f) RETURN OF AID.—

21 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR
 22 ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local
 23 educational agency or eligible BIA-funded school
 24 that receives an emergency impact aid payment
 25 under this section shall return to the State edu-

1 cational agency any payment provided to the eligible
2 local educational agency or school under this section
3 that the eligible local educational agency or school
4 has not obligated by the end of the 2005–2006
5 school year in accordance with this section.

6 (2) STATE EDUCATIONAL AGENCY.—A State
7 educational agency that receives emergency impact
8 aid under this section, shall return to the Secretary
9 of Education—

10 (A) any aid provided to the agency under
11 this section that the agency has not obligated
12 by the end of the 2005–2006 school year in ac-
13 cordance with this section; and

14 (B) any payment funds returned to the
15 State educational agency under paragraph (1).

16 (g) LIMITATION ON USE OF AID AND PAYMENTS.—
17 Aid and payments provided under this section shall only
18 be used for expenses incurred during the 2005–2006
19 school year.

20 (h) ADMINISTRATIVE EXPENSES.—A State edu-
21 cational agency that receives emergency impact aid under
22 this section may use not more than 1 percent of such aid
23 for administrative expenses. An eligible local educational
24 agency or eligible BIA-funded school that receives emer-
25 gency impact aid payments under this section may use not

1 more than 2 percent of such payments for administrative
2 expenses.

3 (i) SPECIAL FUNDING RULE.—In calculating funding
4 under section 8003 of the Elementary and Secondary
5 Education Act of 1965 (20 U.S.C. 7703) for an eligible
6 local educational agency that receives an emergency im-
7 pact aid payment under this section, the Secretary of Edu-
8 cation shall not count displaced students served by such
9 agency for whom an emergency impact aid payment is re-
10 ceived under this section, nor shall such students be count-
11 ed for the purpose of calculating the total number of chil-
12 dren in average daily attendance at the schools served by
13 such agency as provided in section 8003(b)(3)(B)(i) of
14 such Act (20 U.S.C. 7703(b)(3)(B)(i)).

15 (j) NOTICE OF OPTION OF PUBLIC SCHOOL OR NON-
16 PUBLIC SCHOOL ENROLLMENT.—Each State receiving
17 emergency impact aid under this section shall provide, to
18 the parent or guardian of each displaced student for whom
19 a payment is made under this section to an account who
20 resides in such State, notification that such parent or
21 guardian has the option of enrolling such student in a pub-
22 lic school or a non-public school.

23 (k) BY-PASS.—If a State educational agency or eligi-
24 ble local educational agency is unable to carry out this
25 section, the Secretary of Education may make such ar-

1 rangements with the State as the Secretary determines ap-
2 propriate to carry out this section on behalf of displaced
3 students attending an eligible non-public school in the area
4 served by such agency. For a State in which State law
5 prohibits the State from using Federal funds to directly
6 provide services on behalf of students attending non-public
7 schools and provides that another entity shall provide such
8 services, the Secretary of Education shall make such ar-
9 rangements with that entity.

10 (l) NONDISCRIMINATION.—

11 (1) IN GENERAL.—A school that enrolls a dis-
12 placed student under this section shall not discrimi-
13 nate against students on the basis of race, color, na-
14 tional origin, religion, disability, or sex.

15 (2) APPLICABILITY AND SINGLE SEX SCHOOLS,
16 CLASSES, OR ACTIVITIES.—

17 (A) IN GENERAL.—To the extent con-
18 sistent with title IX of the Education Amend-
19 ments of 1972 (20 U.S.C. 1681 et seq.), the
20 prohibition of sex discrimination in paragraph
21 (1) shall not apply to a non-public school that
22 is controlled by a religious organization if the
23 application of paragraph (1) would not be con-
24 sistent with the religious tenets of such organi-
25 zation.

1 (B) SINGLE SEX SCHOOLS, CLASSES, OR
2 ACTIVITIES.—Notwithstanding paragraph (1)
3 and to the extent consistent with title IX of the
4 Education Amendments of 1972, a parent or
5 guardian may choose and a non-public school
6 may offer a single sex school, class, or activity.

7 (C) ENROLLMENT.—The prohibition of re-
8 ligious discrimination in paragraph (1) shall not
9 apply with regard to enrollment for a non-pub-
10 lic school that is controlled by a religious orga-
11 nization, except in the case of the enrollment of
12 displaced students assisted under this section.

13 (3) GENERAL PROVISION.—Nothing in this sec-
14 tion may be construed to alter or modify the provi-
15 sions of the Individuals with Disabilities Education
16 Act (20 U.S.C. 1400 et seq.), title VI of the Civil
17 Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
18 IX of the Education Amendments of 1972 (20
19 U.S.C. 1681 et seq.), and the Rehabilitation Act of
20 1973 (29 U.S.C. 701 et seq.).

21 (4) OPT-IN.—A displaced student assisted
22 under this section who is enrolled in a non-public
23 school shall not participate in religious worship or
24 religious classes at such school unless such student's

1 parent or guardian chooses to opt-in such student
2 for such religious worship or religious classes.

3 (5) **RULE OF CONSTRUCTION.**—The amount of
4 any payment (or other form of support provided on
5 behalf of a displaced student) under this section
6 shall not be treated as income of a parent or guard-
7 ian of the student for purposes of Federal tax laws
8 or for determining eligibility for any other Federal
9 program.

10 (m) **TREATMENT OF STATE AID.**—A State shall not
11 take into consideration emergency impact aid payments
12 received under this section by a local educational agency
13 in the State in determining the eligibility of such local edu-
14 cational agency for State aid, or the amount of State aid,
15 with respect to free public education of children.

16 **SEC. 7953. ORIGINATION FEES FOR STUDENT LOANS.**

17 (a) **SPECIAL ALLOWANCES.**—Notwithstanding sec-
18 tion 438(c)(2) of the Higher Education Act of 1965 (as
19 amended by this Act) (20 U.S.C. 1087–1(c)(2)), subpara-
20 graph (A) of section 438(c)(2) of such Act shall be applied
21 by substituting “2.0 percent” for “3.0 percent” with re-
22 spect to loans for which the first disbursement of principal
23 is made on or after July 1, 2007.

24 (b) **ORIGINATION FEES FOR FEDERAL DIRECT**
25 **LOANS.**—Notwithstanding subsection (c) of section 455 of

1 the Higher Education Act of 1965 (as amended by this
2 Act) (20 U.S.C. 1087e(c)), the second sentence of such
3 subsection shall be applied by substituting “2.0 percent”
4 for “2.5 percent” with respect to loans for which the first
5 disbursement of principal is made on or after July 1,
6 2007.

7 (c) REPEAL OF ORIGINATION FEES.—

8 (1) AMENDMENTS.—Sections 438(c) and 455(c)
9 of the Higher Education Act of 1965 (20 U.S.C.
10 1087–1(c), 1087e(c)) are repealed.

11 (2) EFFECTIVE DATE.—The amendments made
12 by paragraph (1) shall take effect on July 1, 2011.

13 (d) NONAPPLICABILITY OF SUNSET PROVISION.—
14 Section 7959 shall not apply to this section or to the
15 amendments made by this section.

16 **SEC. 7954. AUTHORIZATION AND APPROPRIATION OF**
17 **FUNDS.**

18 There are authorized to be appropriated, and there
19 are appropriated, out of any money in the Treasury not
20 otherwise appropriated, \$1,660,000,000 to carry out this
21 subtitle, of which—

22 (1) \$450,000,000 shall be available to carry out
23 section 7952;

24 (2) \$10,000,000 shall be available to carry out
25 section 7955; and

1 (3) \$1,200,000,000 shall be available to carry
2 out section 7956.

3 **SEC. 7955. SUNSET PROVISION.**

4 Except as otherwise provided in this subtitle, the pro-
5 visions of this subtitle shall be effective for the period be-
6 ginning on the date of enactment of this Act and ending
7 on August 1, 2006.

8 **TITLE VIII—COMMITTEE ON THE**
9 **JUDICIARY**

10 **SEC. 8001. RECAPTURE OF UNUSED VISA NUMBERS.**

11 (a) RECAPTURE OF UNUSED EMPLOYMENT-BASED
12 IMMIGRANT VISAS.—Section 201(d) of the Immigration
13 and Nationality Act (8 U.S.C. 1151(d)) is amended—

14 (1) in paragraph (2)(C)—

15 (A) by striking “is the difference” and in-
16 serting “is the sum of—

17 “(i) the difference”; and

18 (B) by striking the period at the end and
19 inserting the following: “; and

20 “(ii) the lesser of—

21 “(I) the number of immigrant
22 visas that were available in any pre-
23 vious fiscal year to employment-based
24 immigrants (and their family mem-
25 bers accompanying or following to join

1 under section 203(d)) and that were
2 not issued for that fiscal year or for
3 any subsequent fiscal year, excluding
4 those immigrant visas reserved for
5 employment-based immigrants for an
6 occupation listed in schedule A of sec-
7 tion 656.5 of title 20, Code of Federal
8 Regulations; and

9 “(II) 90,000.”; and

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

11 “(3) Immigrant visas issued on or after October
12 1, 2004, to spouses and children of employment-
13 based immigrants shall not be counted against the
14 numerical limitation set forth in paragraph (1).”.

15 (b) SUPPLEMENTAL PETITION FEE.—Section
16 204(a)(1) of the Immigration and Nationality Act (8
17 U.S.C. 1154(a)(1)) is amended—

18 (1) in subparagraph (E), by adding at the end
19 the following: “Such petition shall be accompanied
20 by a supplemental petition fee in the amount of
21 \$500.”; and

22 (2) in subparagraph (F), by adding at the end
23 the following: “Such petition shall be accompanied
24 by a supplemental petition fee in the amount of
25 \$500.”.

1 (c) ADJUSTMENT OF STATUS.—

2 (1) IN GENERAL.—Section 245(a) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1255(a)) is
4 amended to read as follows:

5 “(a)(1) The status of an alien who was inspected and
6 admitted or paroled into the United States or the status
7 of any other alien having an approved petition for classi-
8 fication under subparagraph (A)(iii), (A)(iv), (B)(ii), or
9 (B)(iii) of section 204(a)(1) may be adjusted by the Sec-
10 retary of Homeland Security or the Attorney General, in
11 the discretion of the Secretary or Attorney General, and
12 under such regulations as the Secretary or Attorney Gen-
13 eral may prescribe, to that of an alien lawfully admitted
14 for permanent residence if—

15 “(A) the alien makes an application for such
16 adjustment;

17 “(B) the alien is eligible to receive an immi-
18 grant visa and is admissible to the United States for
19 permanent residence; and

20 “(C) an immigrant visa is immediately available
21 to the alien at the time the application is filed.

22 “(2) If a supplemental petition fee is paid for any
23 petition under subparagraph (E) or (F) of section
24 204(a)(1), an application under paragraph (1) of this sub-
25 section on behalf of an alien beneficiary of such petition

1 (including a spouse or child who is accompanying or fol-
2 lowing to join the principal beneficiary) may be filed with-
3 out regard to the limitation set forth in paragraph (1)(C).
4 An application for adjustment of status filed under this
5 paragraph may not be approved until such time as an im-
6 migrant visa becomes available.”.

7 (2) PENDING APPLICATIONS.—An alien on
8 whose behalf a petition was pending under subpara-
9 graph (E) or (F) of section 204(a)(1) of the Immig-
10 ration and Nationality Act (8 U.S.C. 1154(a)(1)),
11 on the date of enactment of this Act may, upon the
12 payment of the supplemental petition fee set forth in
13 such section, apply for adjustment of status under
14 this subsection without regard to the limitation set
15 forth in section 245(a)(1)(C) of the Immigration and
16 Nationality Act (8 U.S.C. 1255(a)(1)(C)), as amend-
17 ed by paragraph (1).

18 (d) RECAPTURE OF UNUSED H-1B VISA NUM-
19 BERS.—Section 214(g) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1184(g)) is amended—

21 (1) by redesignating paragraphs (9) through
22 (11) as paragraphs (10) through (12), respectively;
23 and

24 (2) by inserting after paragraph (8) the fol-
25 lowing:

1 “(9)(A) If the numerical limitation in para-
2 graph (1)(A) for fiscal year 2006 or a subsequent
3 fiscal year has been reached, such numerical limita-
4 tion shall be supplemented in a number equal to the
5 lesser of—

6 “(i) the cumulative total number of visas
7 that were available in all prior fiscal years sub-
8 sequent to fiscal year 1991, and not issued for
9 each such fiscal year or any subsequent fiscal
10 year; and

11 “(ii) 30,000.

12 “(B) Any petition filed after the numerical limi-
13 tation set forth in paragraph (1)(A) has been
14 reached for that fiscal year, and seeking an H-1B
15 visa number recaptured under subparagraph (A) of
16 this paragraph, shall be accompanied by an H-1B
17 recapture fee in the amount of \$500.”.

18 (e) CONFORMING AMENDMENT.—Section 286(m) of
19 the Immigration and Nationality Act (8 U.S.C. 1356(m))
20 is amended by inserting “, including those fees provided
21 for in subparagraphs (E) and (F) of section 204(a)(1) and
22 subsections (c)(15) and (g)(9)(B) of section 214,” after
23 “all adjudication fees”.

24 (f) EXPENDITURE LIMITATION.—Amounts collected
25 under subparagraphs (E) and (F) of section 204(a)(1)

1 and subsections (c)(15) and (g)(9)(B) of section 214 of
2 the Immigration and Nationality Act, as amended by this
3 Act, may not be expended unless specifically appropriated
4 by an Act of Congress.

5 **SEC. 8002. FEES WITH RESPECT TO IMMIGRATION SERV-**
6 **ICES FOR INTRACOMPANY TRANSFEREES.**

7 Section 214(c) of the Immigration and Nationality
8 Act (8 U.S.C. 1184(c)) is amended by adding at the end
9 the following:

10 “(15)(A) The Secretary of State shall impose a fee
11 on an employer when an alien files an application abroad
12 for a visa authorizing initial admission to the United
13 States as a nonimmigrant described in section
14 101(a)(15)(L) in order to be employed by the employer,
15 if the alien is covered under a blanket petition described
16 in paragraph (2)(A).

17 “(B) The Secretary of Homeland Security shall im-
18 pose a fee on an employer filing a petition under para-
19 graph (1) initially to grant an alien nonimmigrant status
20 described in section 101(a)(15)(L) or to extend for the
21 first time the stay of an alien having such status.

22 “(C) The amount of the fee imposed under subpara-
23 graph (A) or (B) shall be \$750.

24 “(D) The fees imposed under subparagraphs (A) and
25 (B) shall only apply to principal aliens and not to spouses

1 or children who are accompanying or following to join such
2 principal aliens.

3 “(E)(i) An employer may not require an alien who
4 is the beneficiary of the visa or petition for which a fee
5 is imposed under this paragraph to reimburse, or other-
6 wise compensate, the employer for part or all of the cost
7 of such fee.

8 “(ii) Section 274A(g)(2) shall apply to a violation of
9 clause (i) in the same manner as it applies to a violation
10 of section 274A(g)(1).”.

11 **SEC. 8003. JUSTICE PROGRAMS.**

12 (a) IN GENERAL.—The Secretary of the Treasury—

13 (1) for fiscal year 2006, out of the funds in the
14 Treasury not otherwise appropriated, shall pay to
15 the Attorney General, by December 31, 2005, the
16 amounts listed in subsection (b) that are to be pro-
17 vided for fiscal year 2006; and

18 (2) for each subsequent fiscal year provided in
19 subsection (b) out of funds in the Treasury not oth-
20 erwise appropriated, shall pay to the Attorney Gen-
21 eral the amounts provided by November 1 of each
22 such fiscal year.

23 (b) AMOUNTS PROVIDED.—The amounts referred to
24 in subsection (a), which shall be in addition to funds ap-
25 propriated for each fiscal year, are—

1 (1) \$8,000,000 for fiscal year 2006,
2 \$17,000,000 for fiscal year 2007, \$15,000,000 for
3 fiscal year 2008, \$10,000,000 for fiscal year 2009,
4 and \$10,000,000 for fiscal year 2010, to fund the
5 Bulletproof Vest Partnership Program as authorized
6 under section 4 of Public Law 108–372.

7 (2) \$3,700,000 for fiscal year 2006, \$6,300,000
8 for fiscal year 2007, \$5,000,000 for fiscal year
9 2008, \$5,000,000 for fiscal year 2009, and
10 \$5,000,000 for fiscal year 2010, to fund DNA
11 Training and Education for Law Enforcement, Cor-
12 rectional Personnel, and Court Officers as author-
13 ized by section 303 of Public Law 108–405.

14 (3) \$8,000,000 for fiscal year 2006,
15 \$12,000,000 for fiscal year 2007, \$10,000,000 for
16 fiscal year 2008, \$10,000,000 for fiscal year 2009,
17 and \$10,000,000 for fiscal year 2010, to fund DNA
18 Research and Development as authorized by section
19 305 of Public Law 108–405.

20 (4) \$500,000 for fiscal year 2006, \$500,000 for
21 fiscal year 2007, \$500,000 for fiscal year 2008,
22 \$500,000 for fiscal year 2009, and \$500,000 for fis-
23 cal year 2010, to fund the National Forensic Science
24 Commission as authorized by section 306 of Public
25 Law 108–405.

1 (5) \$1,000,000 for fiscal year 2006, \$1,000,000
2 for fiscal year 2007, \$1,000,000 for fiscal year
3 2008, \$1,000,000 for fiscal year 2009, and
4 \$1,000,000 for fiscal year 2010, to fund DNA Iden-
5 tification of Missing Persons as authorized by sec-
6 tion 308 of Public Law 108–405.

7 (6) \$8,000,000 for fiscal year 2006,
8 \$27,000,000 for fiscal year 2007, \$26,000,000 for
9 fiscal year 2008, \$25,000,000 for fiscal year 2009,
10 and \$25,000,000 for fiscal year 2010, to fund Cap-
11 ital Litigation Improvement Grants as authorized by
12 sections 421, 422, and 426 of Public Law 108–405.

13 (7) \$2,500,000 for fiscal year 2006, \$3,000,000
14 for fiscal year 2007, \$2,500,000 for fiscal year
15 2008, \$2,500,000 for fiscal year 2009, and
16 \$2,500,000 for fiscal year 2010, to fund the Kirk
17 Bloodsworth Post-Conviction DNA Testing Grant
18 Program as authorized by sections 412 and 413 of
19 Public Law 108–405.

20 (8) \$1,000,000 for fiscal year 2006, \$1,000,000
21 for fiscal year 2007, \$1,000,000 for fiscal year
22 2008, \$1,000,000 for fiscal year 2009, and
23 \$1,000,000 for fiscal year 2010, to fund Increased
24 Resources for Enforcement of Crime Victims Rights,
25 Crime Victims Notification Grants as authorized by

1 section 1404D of the Victims of Crime Act of 1984
2 (42 U.S.C. 10603d).

3 (c) OBLIGATION OF FUNDS.—The Attorney General
4 shall—

5 (1) receive funds under this section for fiscal
6 years 2006 through 2010; and

7 (2) accept such funds in the amounts provided
8 which shall be obligated for the purposes stated in
9 this section by March 1 of each fiscal year.

10 **SEC. 8004. COPYRIGHT PROGRAM.**

11 (a) IN GENERAL.—The Secretary of the Treasury—

12 (1) for fiscal year 2006, out of the funds in the
13 Treasury not otherwise appropriated, shall pay to
14 the Librarian of the Congress, by December 31,
15 2005, the amounts listed in subsection (b) that are
16 to be provided for fiscal year 2006; and

17 (2) for each subsequent fiscal year provided in
18 subsection (b) out of funds in the Treasury not oth-
19 erwise appropriated shall pay to the Librarian of the
20 Congress the amounts provided by November 1 of
21 each such fiscal year.

22 (b) AMOUNTS PROVIDED.—The amounts referred to
23 in subsection (a), which shall be in addition to funds ap-
24 propriated for each fiscal year, are: \$1,300,000 for fiscal
25 year 2006, \$1,300,000 for fiscal year 2007, \$1,300,000

1 for fiscal year 2008, \$1,300,000 for fiscal year 2009, and
2 \$1,300,000 for fiscal year 2010, to fund the Copyright
3 Royalty Judges Program as authorized under section
4 803(e)(1)(B) of title 17, United States Code.

5 (c) OBLIGATION OF FUNDS.—The Librarian of the
6 Congress shall—

7 (1) receive funds under this section for fiscal
8 years 2006 through 2010; and

9 (2) accept such funds in the amounts provided
10 which shall be obligated for the purposes stated in
11 this section by March 1 of each fiscal year.

12 **DIVISION A—AMTRAK**
13 **REAUTHORIZATION**

14 **SECTION 1. SHORT TITLE.**

15 This division may be cited as the “Passenger Rail In-
16 vestment and Improvement Act of 2005”.

17 **SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

18 Except as otherwise specifically provided, whenever in
19 this division an amendment is expressed in terms of an
20 amendment to a section or other provision of law, the ref-
21 erence shall be considered to be made to a section or other
22 provision of title 49, United States Code.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES AND STATE CAPITAL GRANTS.

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

- (1) For fiscal year 2006, \$580,000,000.
- (2) For fiscal year 2007, \$590,000,000.
- (3) For fiscal year 2008, \$600,000,000.
- (4) For fiscal year 2009, \$575,000,000.
- (5) For fiscal year 2010, \$535,000,000.
- (6) For fiscal year 2011, \$455,000,000.

(b) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102(a)) to a state-of-good-repair, for capital expenses of the national railroad passenger transportation system, and for purposes of making capital grants under section 24402 of that title to States, the following amounts:

- (1) For fiscal year 2006, \$813,000,000.
- (2) For fiscal year 2007, \$910,000,000.

1 (3) For fiscal year 2008, \$1,071,000,000.

2 (4) For fiscal year 2009, \$1,096,000,000.

3 (5) For fiscal year 2010, \$1,191,000,000.

4 (6) For fiscal year 2011, \$1,231,000,000.

5 (c) AMOUNTS FOR STATE GRANTS.—Out of the
6 amounts authorized under subsection (b), the following
7 percentage shall be available each fiscal year for capital
8 grants to States under section 24402 of title 49, United
9 States Code, to be administered by the Secretary of Trans-
10 portation:

11 (1) 3 percent for fiscal year 2006.

12 (2) 11 percent for fiscal year 2007.

13 (3) 23 percent for fiscal year 2008.

14 (4) 25 percent for fiscal year 2009.

15 (5) 31 percent for fiscal year 2010.

16 (6) 33 percent for fiscal year 2011.

17 (d) PROJECT MANAGEMENT OVERSIGHT.—The Sec-
18 retary may withhold up to $\frac{1}{2}$ of 1 percent of amounts
19 appropriated pursuant to subsection (b) for the costs of
20 project management oversight of capital projects carried
21 out by Amtrak.

22 **SEC. 102. AUTHORIZATION FOR THE FEDERAL RAILROAD**
23 **ADMINISTRATION.**

24 There are authorized to be appropriated to the Sec-
25 retary of Transportation for the use of the Federal Rail-

1 road Administration such sums as necessary to implement
 2 the provisions required under this division for fiscal years
 3 2006 through 2011.

4 **SEC. 103. REPAYMENT OF LONG-TERM DEBT AND CAPITAL**
 5 **LEASES.**

6 (a) AMTRAK PRINCIPAL AND INTEREST PAY-
 7 MENTS.—

8 (1) PRINCIPAL ON DEBT SERVICE.—There are
 9 authorized to be appropriated to the Secretary of
 10 Transportation for the use of Amtrak for retirement
 11 of principal on loans for capital equipment, or cap-
 12 ital leases, not more than the following amounts:

13 (A) For fiscal year 2006, \$130,200,000.

14 (B) For fiscal year 2007, \$140,700,000.

15 (C) For fiscal year 2008, \$156,000,000.

16 (D) For fiscal year 2009, \$183,800,000.

17 (E) For fiscal year 2010, \$156,100,000.

18 (F) For fiscal year 2011, \$193,500,000.

19 (2) INTEREST ON DEBT.—There are authorized
 20 to be appropriated to the Secretary of Transpor-
 21 tation for the use of Amtrak for the payment of in-
 22 terest on loans for capital equipment, or capital
 23 leases, the following amounts:

24 (A) For fiscal year 2006, \$148,100,000.

25 (B) For fiscal year 2007, \$141,500,000.

1 (C) For fiscal year 2008, \$133,800,000.

2 (D) For fiscal year 2009, \$124,000,000.

3 (E) For fiscal year 2010, \$113,900,000.

4 (F) For fiscal year 2011, \$103,800,000.

5 (3) EARLY BUYOUT OPTION.—There are au-
6 thORIZED to be appropriated to the Secretary of
7 Transportation such sums as may be necessary for
8 the use of Amtrak for the payment of costs associ-
9 ated with early buyout options if the exercise of
10 those options is determined to be advantageous to
11 Amtrak.

12 (4) LEGAL EFFECT OF PAYMENTS UNDER THIS
13 SECTION.—The payment of principal and interest on
14 secured debt, with the proceeds of grants authorized
15 by this section shall not—

16 (A) modify the extent or nature of any in-
17 debtedness of the National Railroad Passenger
18 Corporation to the United States in existence of
19 the date of enactment of this Act;

20 (B) change the private nature of Amtrak's
21 or its successors' liabilities; or

22 (C) imply any Federal guarantee or com-
23 mitment to amortize Amtrak's outstanding in-
24 debtedness.

1 **SEC. 104. EXCESS RAILROAD RETIREMENT.**

2 There are authorized to be appropriated to the Sec-
3 retary of Transportation, beginning with fiscal year 2006,
4 such sums as may be necessary to pay to the Railroad
5 Retirement Account an amount equal to the amount Am-
6 trak must pay under section 3221 of the Internal Revenue
7 Code of 1986 in such fiscal years that is more than the
8 amount needed for benefits for individuals who retire from
9 Amtrak and for their beneficiaries. For each fiscal year
10 in which the Secretary makes such a payment, the
11 amounts authorized by section 101(a) shall be reduced by
12 an amount equal to such payment.

13 **SEC. 105. OTHER AUTHORIZATIONS.**

14 There are authorized to be appropriated to the Sec-
15 retary of Transportation—

16 (1) \$5,000,000 for each of fiscal years 2006
17 through 2011 to carry out the rail cooperative re-
18 search program under section 24910 of title 49,
19 United States Code;

20 (2) \$5,000,000 for fiscal year 2006, to remain
21 available until expended, for grants to Amtrak and
22 States participating in the Next Generation Corridor
23 Train Equipment Pool Committee established under
24 section 303 of this division for the purpose of de-
25 signing, developing specifications for, and initiating
26 the procurement of an initial order of 1 or more

1 types of standardized next-generation corridor train
 2 equipment and establishing a jointly-owned corpora-
 3 tion to manage that equipment; and

4 (3) \$2,000,000 for fiscal year 2007, for the use
 5 of Amtrak in conducting the evaluation required by
 6 section 216 of this division.

7 **TITLE II—AMTRAK REFORM AND**
 8 **OPERATIONAL IMPROVEMENTS**

9 **SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPOR-**
 10 **TATION SYSTEM DEFINED.**

11 (a) IN GENERAL.—Section 24102 is amended—

12 (1) by striking paragraph (2);

13 (2) by redesignating paragraphs (3), (4), and
 14 (5) as paragraphs (2), (3), and (4), respectively; and

15 (3) by inserting after paragraph (4) as so re-
 16 designated the following:

17 “(5) ‘national rail passenger transportation sys-
 18 tem’ means—

19 “(A) the segment of the Northeast Cor-
 20 ridor between Boston, Massachusetts and
 21 Washington, D.C.;

22 “(B) rail corridors that have been des-
 23 ignated by the Secretary of Transportation as
 24 high-speed corridors (other than corridors de-
 25 scribed in subparagraph (A)), but only after

1 they have been improved to permit operation of
2 high-speed service;

3 “(C) long distance routes of more than
4 750 miles between endpoints operated by Am-
5 trak as of the date of enactment of the Pas-
6 senger Rail Investment and Improvement Act of
7 2005; and

8 “(D) short-distance corridors, or routes of
9 not more than 750 miles between endpoints, op-
10 erated by—

11 “(i) Amtrak; or

12 “(ii) another rail carrier that receives
13 funds under chapter 244.”.

14 (b) AMTRAK ROUTES WITH STATE FUNDING.—

15 (1) IN GENERAL.—Chapter 247 is amended by
16 inserting after section 24701 the following:

17 **“§ 24702. Transportation requested by States, au-**
18 **thorities, and other persons**

19 “(a) CONTRACTS FOR TRANSPORTATION.—Amtrak
20 may enter into a contract with a State, a regional or local
21 authority, or another person for Amtrak to operate an
22 intercity rail service or route not included in the national
23 rail passenger transportation system upon such terms as
24 the parties thereto may agree.

1 “(b) DISCONTINUANCE.—Upon termination of a con-
 2 tract entered into under this section, or the cessation of
 3 financial support under such a contract by either party,
 4 Amtrak may discontinue such service or route, notwith-
 5 standing any other provision of law.”.

6 (2) CONFORMING AMENDMENT.—The chapter
 7 analysis for chapter 247 is amended by inserting
 8 after the item relating to section 24701 the fol-
 9 lowing:

“24702. Transportation requested by States, authorities, and other persons”.

10 (c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-
 11 SPEED SERVICES.—Nothing in this division is intended to
 12 preclude Amtrak from restoring, improving, or developing
 13 non-high-speed intercity passenger rail service.

14 (d) APPLICABILITY OF SECTION 24706.—Section
 15 24706 is amended by adding at the end the following:

16 “(c) APPLICABILITY.—This section applies to all
 17 service over routes provided by Amtrak, notwithstanding
 18 any provision of section 24701 of this title or any other
 19 provision of this title except section 24702(b).”.

20 **SEC. 202. AMTRAK BOARD OF DIRECTORS.**

21 (a) IN GENERAL.—Section 24302 is amended to read
 22 as follows:

23 **“§ 24302. Board of directors**

24 “(a) COMPOSITION AND TERMS.—

1 “(1) The Board of Directors of Amtrak is com-
2 posed of the following 10 directors, each of whom
3 must be a citizen of the United States:

4 “(A) The Secretary of Transportation.

5 “(B) The President of Amtrak, who shall
6 serve *ex officio*, as a non-voting member.

7 “(C) 8 individuals appointed by the Presi-
8 dent of the United States, by and with the ad-
9 vice and consent of the Senate, with general
10 business and financial experience, experience or
11 qualifications in transportation, freight and
12 passenger rail transportation, travel, hospi-
13 tality, cruise line, and passenger air transpor-
14 tation businesses, or representatives of employ-
15 ees or users of passenger rail transportation or
16 a State government.

17 “(2) In selecting individuals described in para-
18 graph (1) for nominations for appointments to the
19 Board, the President shall consult with the Speaker
20 of the House of Representatives, the Minority Lead-
21 er of the House of Representatives, the Majority
22 Leader of the Senate, and the Minority Leader of
23 the Senate and try to provide adequate and balanced
24 representation of the major geographic regions of
25 the United States served by Amtrak.

1 “(3) An individual appointed under paragraph
2 (1)(C) of this subsection serves for 5 years or until
3 the individual’s successor is appointed and qualified.
4 Not more than 5 individuals appointed under para-
5 graph (1)(C) may be members of the same political
6 party.

7 “(4) The Board shall elect a chairman and a
8 vice chairman from among its membership. The vice
9 chairman shall serve as chairman in the absence of
10 the chairman.

11 “(5) The Secretary may be represented at
12 board meetings by the Secretary’s designee.

13 “(6) The voting privileges of the President can
14 be changed by a unanimous decision of the Board.

15 “(b) PAY AND EXPENSES.—Each director not em-
16 ployed by the United States Government is entitled to
17 \$300 a day when performing Board duties. Each Director
18 is entitled to reimbursement for necessary travel, reason-
19 able secretarial and professional staff support, and sub-
20 sistence expenses incurred in attending Board meetings.

21 “(c) VACANCIES.—A vacancy on the Board is filled
22 in the same way as the original selection, except that an
23 individual appointed by the President of the United States
24 under subsection (a)(1)(C) of this section to fill a vacancy
25 occurring before the end of the term for which the prede-

1 cessor of that individual was appointed is appointed for
2 the remainder of that term. A vacancy required to be filled
3 by appointment under subsection (a)(1)(C) must be filled
4 not later than 120 days after the vacancy occurs.

5 “(d) QUORUM.—A majority of the members serving
6 shall constitute a quorum for doing business.

7 “(e) BYLAWS.—The Board may adopt and amend by-
8 laws governing the operation of Amtrak. The bylaws shall
9 be consistent with this part and the articles of incorpora-
10 tion.”.

11 (b) EFFECTIVE DATE FOR DIRECTORS’ PROVI-
12 SION.—The amendment made by subsection (a) shall take
13 effect on January 1, 2006. The members of the Amtrak
14 Board serving on the date of enactment of this Act may
15 continue to serve for the remainder of the term to which
16 they were appointed.

17 **SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL AC-**
18 **COUNTING SYSTEM.**

19 (a) IN GENERAL.—The Amtrak Board of Directors—

20 (1) may employ an independent financial con-
21 sultant with experience in railroad accounting to as-
22 sist Amtrak in improving Amtrak’s financial ac-
23 counting and reporting system and practices; and

24 (2) shall implement a modern financial account-
25 ing and reporting system that will produce accurate

1 and timely financial information in sufficient
2 detail—

3 (A) to enable Amtrak to assign revenues
4 and expenses appropriately to each of its lines
5 of business and to each major activity within
6 each line of business activity, including train
7 operations, equipment maintenance, ticketing,
8 and reservations;

9 (B) to aggregate expenses and revenues re-
10 lated to infrastructure and distinguish them
11 from expenses and revenues related to rail oper-
12 ations;

13 (C) to allow the analysis of ticketing and
14 reservation information on a real-time basis;

15 (D) to provide Amtrak cost accounting
16 data; and

17 (E) to allow financial analysis by route and
18 service.

19 (b) VERIFICATION OF SYSTEM; REPORT.—The In-
20 spector General of the Department of Transportation shall
21 review the accounting system designed and implemented
22 under subsection (a) to ensure that it accomplishes the
23 purposes for which it is intended. The Inspector General
24 shall report his findings and conclusions, together with
25 any recommendations, to the Senate Committee on Com-

1 merce, Science, and Transportation and the House of Rep-
2 resentatives Committee on Transportation and Infrastruc-
3 ture.

4 **SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.**

5 (a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—

6 The Amtrak Board of Directors shall submit an annual
7 budget and business plan for Amtrak, and a 5-year finan-
8 cial plan for the fiscal year to which that budget and busi-
9 ness plan relate and the subsequent 4 years, prepared in
10 accordance with this section, to the Secretary of Transpor-
11 tation and the Inspector General of the Department of
12 Transportation no later than—

13 (1) the first day of each fiscal year beginning
14 after the date of enactment of this Act; or

15 (2) the date that is 60 days after the date of
16 enactment of an appropriation Act for the fiscal
17 year, if later.

18 (b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The
19 5-year financial plan for Amtrak shall include, at a
20 minimum—

21 (1) all projected revenues and expenditures for
22 Amtrak, including governmental funding sources;

23 (2) projected ridership levels for all Amtrak
24 passenger operations;

1 (3) revenue and expenditure forecasts for non-
2 passenger operations;

3 (4) capital funding requirements and expendi-
4 tures necessary to maintain passenger service which
5 will accommodate predicted ridership levels and pre-
6 dicted sources of capital funding;

7 (5) operational funding needs, if any, to main-
8 tain current and projected levels of passenger serv-
9 ice, including state-supported routes and predicted
10 funding sources;

11 (6) projected capital and operating require-
12 ments, ridership, and revenue for any new passenger
13 service operations or service expansions;

14 (7) an assessment of the continuing financial
15 stability of Amtrak, as indicated by factors such as
16 the ability of the Federal government to fund capital
17 and operating requirements adequately, Amtrak's
18 ability to efficiently manage its workforce, and Am-
19 trak's ability to effectively provide passenger train
20 service;

21 (8) estimates of long-term and short-term debt
22 and associated principle and interest payments (both
23 current and anticipated);

24 (9) annual cash flow forecasts;

1 (10) a statement describing methods of esti-
2 mation and significant assumptions;

3 (11) specific measures that demonstrate meas-
4 urable improvement year over year in Amtrak's abil-
5 ity to operate with reduced Federal operating assist-
6 ance; and

7 (12) capital and operating expenditures for an-
8 ticipated security needs.

9 (c) STANDARDS TO PROMOTE FINANCIAL STA-
10 BILITY.—In meeting the requirements of subsection (b),
11 Amtrak shall—

12 (1) apply sound budgetary practices, including
13 reducing costs and other expenditures, improving
14 productivity, increasing revenues, or combinations of
15 such practices;

16 (2) use the categories specified in the financial
17 accounting and reporting system developed under
18 section 203 when preparing its 5-year financial plan;
19 and

20 (3) ensure that the plan is consistent with the
21 authorizations of appropriations under title I of this
22 division.

23 (d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

24 (1) IN GENERAL.—The Inspector General of
25 the Department of Transportation shall assess the

1 5-year financial plans prepared by Amtrak under
2 this section to determine whether they meet the re-
3 quirements of subsection (b), and may suggest revi-
4 sions to any components thereof that do not meet
5 those requirements.

6 (2) ASSESSMENT TO BE FURNISHED TO THE
7 CONGRESS.—The Inspector General shall furnish to
8 the House of Representatives Committee on Appro-
9 priations, the Senate Committee on Appropriations,
10 the House of Representatives Committee on Trans-
11 portation and Infrastructure, and the Senate Com-
12 mittee on Commerce, Science, and Transportation—

13 (A) an assessment of the annual budget
14 within 90 days after receiving it from Amtrak;
15 and

16 (B) an assessment of the remaining 4
17 years of the 5-year financial plan within 180
18 days after receiving it from Amtrak.

19 **SEC. 205. ESTABLISHMENT OF GRANT PROCESS.**

20 (a) GRANT REQUESTS.—Amtrak shall submit grant
21 requests (including a schedule for the disbursement of
22 funds), consistent with the requirements of this division,
23 to the Secretary of Transportation for funds authorized
24 to be appropriated to the Secretary for the use of Amtrak
25 under sections 101(a) and (b), 103, and 105.

1 (b) PROCEDURES FOR GRANT REQUESTS.—The Sec-
2 retary shall establish substantive and procedural require-
3 ments, including schedules, for grant requests under this
4 section not later than 30 days after the date of enactment
5 of this Act and shall transmit copies to the Senate Com-
6 mittee on Commerce, Science, and Transportation and the
7 House of Representatives Committee on Transportation
8 and Infrastructure. As part of those requirements, the
9 Secretary shall require, at a minimum, that Amtrak de-
10 posit grant funds, consistent with the appropriated
11 amounts for each area of expenditure in a given fiscal
12 year, in the following 3 accounts:

13 (1) The Amtrak Operating account.

14 (2) The Amtrak General Capital account.

15 (3) The Northeast Corridor Improvement funds
16 account.

17 Amtrak may not transfer such funds to another account
18 or expend such funds for any purpose other than the pur-
19 poses covered by the account in which the funds are depos-
20 ited without approval by the Secretary.

21 (c) REVIEW AND APPROVAL.—

22 (1) 30-DAY APPROVAL PROCESS.—The Sec-
23 retary shall complete the review of a complete grant
24 request (including the disbursement schedule) and
25 approve or disapprove the request within 30 days

1 after the date on which Amtrak submits the grant
2 request. If the Secretary disapproves the request or
3 determines that the request is incomplete or defi-
4 cient, the Secretary shall include the reason for dis-
5 approval or the incomplete items or deficiencies in
6 the notice to Amtrak.

7 (2) 15-DAY MODIFICATION PERIOD.—Within 15
8 days after receiving notification from the Secretary
9 under the preceding sentence, Amtrak shall submit
10 a modified request for the Secretary’s review.

11 (3) REVISED REQUESTS.—Within 15 days after
12 receiving a modified request from Amtrak, the Sec-
13 retary shall either approve the modified request, or,
14 if the Secretary finds that the request is still incom-
15 plete or deficient, the Secretary shall identify in
16 writing to the Senate Committee on Commerce,
17 Science, and Transportation and the House of Rep-
18 resentatives Committee on Transportation and In-
19 frastructure the remaining deficiencies and rec-
20 ommend a process for resolving the outstanding por-
21 tions of the request.

22 **SEC. 206. STATE-SUPPORTED ROUTES.**

23 (a) IN GENERAL.—Within 2 years after the date of
24 enactment of this Act, the Board of Directors of Amtrak,
25 in consultation with the Secretary of Transportation and

1 the governors of each State and the Mayor of the District
2 of Columbia or groups representing those officials, shall
3 develop and implement a standardized methodology for es-
4 tablishing and allocating the operating and capital costs
5 among the States and Amtrak associated with trains oper-
6 ated on routes described in section 24102(5)(B) or (D)
7 or section 24702 that—

8 (1) ensures, within 5 years after the date of en-
9 actment of this Act, equal treatment in the provision
10 of like services of all States and groups of States
11 (including the District of Columbia); and

12 (2) allocates to each route the costs incurred
13 only for the benefit of that route and a propor-
14 tionate share, based upon factors that reasonably re-
15 flect relative use, of costs incurred for the common
16 benefit of more than 1 route.

17 (b) REVIEW.—If Amtrak and the States (including
18 the District of Columbia) in which Amtrak operates such
19 routes do not voluntarily adopt and implement the meth-
20 odology developed under subsection (a) in allocating costs
21 and determining compensation for the provision of service
22 in accordance with the date established therein, the Sur-
23 face Transportation Board shall determine the appro-
24 priate methodology required under subsection (a) for such
25 services in accordance with the procedures and procedural

1 schedule applicable to a proceeding under section 24904(c)
 2 of title 49, United States Code, and require the full imple-
 3 mentation of this methodology with regards to the provi-
 4 sion of such service within 1 year after the Board's deter-
 5 mination of the appropriate methodology.

6 (c) USE OF CHAPTER 244 FUNDS.—Funds provided
 7 to a State under chapter 244 of title 49, United States
 8 Code, may be used, as provided in that chapter, to pay
 9 capital costs determined in accordance with this section.

10 **SEC. 207. INDEPENDENT AUDITOR TO ESTABLISH METH-**
 11 **ODOLOGIES FOR AMTRAK ROUTE AND SERV-**
 12 **ICE PLANNING DECISIONS.**

13 (a) METHODOLOGY DEVELOPMENT.—The Federal
 14 Railroad Administration shall obtain the services of an
 15 independent auditor or consultant to develop and rec-
 16 ommend objective methodologies for determining intercity
 17 passenger routes and services, including the establishment
 18 of new routes, the elimination of existing routes, and the
 19 contraction or expansion of services or frequencies over
 20 such routes. In developing such methodologies, the auditor
 21 or consultant shall consider—

22 (1) the current or expected performance and
 23 service quality of intercity passenger train oper-
 24 ations, including cost recovery, on-time performance

1 and minutes of delay, ridership, on-board services,
2 stations, facilities, equipment, and other services;

3 (2) connectivity of a route with other routes;

4 (3) the transportation needs of communities
5 and populations that are not well served by other
6 forms of public transportation;

7 (4) Amtrak's and other major intercity pas-
8 senger rail service providers in other countries'
9 methodologies for determining intercity passenger
10 rail routes and services; and

11 (5) the views of the States and other interested
12 parties.

13 (b) SUBMITTAL TO CONGRESS.—The auditor or con-
14 sultant shall submit recommendations developed under
15 subsection (a) to Amtrak, the House of Representatives
16 Committee on Transportation and Infrastructure, and the
17 Senate Committee on Commerce, Science, and Transpor-
18 tation.

19 (c) CONSIDERATION OF RECOMMENDATIONS.—With-
20 in 90 days after receiving the recommendations developed
21 under subsection (a) by the independent auditor or con-
22 sultant, the Amtrak Board shall consider the adoption of
23 those recommendations. The Board shall transmit a report
24 to the Senate Committee on Commerce, Science, and
25 Transportation and the House of Representatives Com-

1 mittee on Transportation and Infrastructure explaining its
2 action in adopting or failing to adopt any of the rec-
3 ommendations.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be made available to the Secretary of
6 Transportation, out of any amounts authorized by this di-
7 vision to be appropriated for the benefit of Amtrak and
8 not otherwise obligated or expended, such sums as may
9 be necessary to carry out this section.

10 (e) PIONEER ROUTE.—Within 2 years after the date
11 of enactment of this Act, Amtrak shall conduct a 1-time
12 evaluation of the Pioneer Route formerly operated by Am-
13 trak to determine, using methodologies adopted under
14 subsection (c), whether a level of passenger demand exists
15 that would warrant consideration of reinstating the entire
16 Pioneer Route service or segments of that service.

17 **SEC. 208. METRICS AND STANDARDS.**

18 (a) IN GENERAL.—Within 180 days after the date
19 of enactment of this Act, the Administrator of the Federal
20 Railroad Administration and Amtrak shall jointly, in con-
21 sultation with the Surface Transportation Board, rail car-
22 riers over whose rail lines Amtrak trains operate, States,
23 Amtrak employees, and groups representing Amtrak pas-
24 sengers, as appropriate, develop new or improve existing
25 metrics and minimum standards for measuring the per-

1 formance and service quality of intercity passenger train
2 operations, including cost recovery, on-time performance
3 and minutes of delay, ridership, on-board services, sta-
4 tions, facilities, equipment, and other services. Such
5 metrics, at a minimum, shall include the percentage of
6 avoidable and fully allocated operating costs covered by
7 passenger revenues on each route, ridership per train mile
8 operated, measures of on-time performance and delays in-
9 curred by intercity passenger trains on the rail lines of
10 each rail carrier and, for long distance routes, measures
11 of connectivity with other routes in all regions currently
12 receiving Amtrak service and the transportation needs of
13 communities and populations that are not well-served by
14 other forms of public transportation. Amtrak shall provide
15 reasonable access to the Federal Railroad Administration
16 in order to enable the Administration to carry out its duty
17 under this section.

18 (b) QUARTERLY REPORTS.—The Administrator of
19 the Federal Railroad Administration shall collect the nec-
20 essary data and publish a quarterly report on the perform-
21 ance and service quality of intercity passenger train oper-
22 ations, including cost recovery, ridership, on-time perform-
23 ance and minutes of delay, causes of delay, on-board serv-
24 ices, stations, facilities, equipment, and other services.

1 (c) CONTRACT WITH HOST RAIL CARRIERS.—To the
 2 extent practicable, Amtrak and its host rail carriers shall
 3 incorporate the metrics and standards developed under
 4 subsection (a) into their access and service agreements.

5 (d) ARBITRATION.—If the development of the metrics
 6 and standards is not completed within the 180-day period
 7 required by subsection (a), any party involved in the devel-
 8 opment of those standards may petition the Surface
 9 Transportation Board to appoint an arbitrator to assist
 10 the parties in resolving their disputes through binding ar-
 11 bitration.

12 **SEC. 209. PASSENGER TRAIN PERFORMANCE.**

13 (a) IN GENERAL.—Section 24308 is amended by
 14 adding at the end the following:

15 “(f) PASSENGER TRAIN PERFORMANCE AND OTHER
 16 STANDARDS.—

17 “(1) INVESTIGATION OF SUBSTANDARD PER-
 18 FORMANCE.—If the on-time performance of any
 19 intercity passenger train averages less than 80 per-
 20 cent for any 2 consecutive calendar quarters, or the
 21 service quality of intercity passenger train operations
 22 for which minimum standards are established under
 23 section 208 of the Passenger Rail Investment and
 24 Improvement Act of 2005 fails to meet those stand-
 25 ards for 2 consecutive calendar quarters, the Surface

1 Transportation Board shall investigate whether, and
2 to what extent, delays or failure to achieve minimum
3 standards are due to causes that could reasonably be
4 addressed by a rail carrier over the tracks of which
5 the intercity passenger train operates or reasonably
6 addressed by the intercity passenger rail operator.
7 In carrying out such an investigation, the Board
8 shall obtain information from all parties involved
9 and make recommendations regarding reasonable
10 measures to improve the service, quality, and on-
11 time performance of the train.

12 “(2) PROBLEMS CAUSED BY HOST RAIL CAR-
13 RIER.—If the Board determines that delays or fail-
14 ures to achieve minimum standards investigated
15 under paragraph (1) are attributable to a rail car-
16 rier’s failure to provide preference to Amtrak over
17 freight transportation under subsection (c), then the
18 Board shall enforce its recommendations for relief
19 under this section.

20 “(3) PENALTIES.—

21 “(A) IN GENERAL.—The Board shall pub-
22 lish a schedule of penalties which will—

23 “(A) fairly reflect the extent to which Am-
24 trak suffers financial loss as a result of host

1 rail carrier delays or failure to achieve min-
 2 imum standards; and

3 “(B) will adequately deter future actions
 4 which may reasonably be expected to be likely
 5 to result in delays to Amtrak.

6 “(B) ASSESSMENT.—The Board may as-
 7 sess these penalties upon a host rail carrier.

8 “(C) USE.—The Board shall make any
 9 amounts received as penalties under this para-
 10 graph available to Amtrak or a State con-
 11 tracting with Amtrak, as applicable, for capital
 12 or operating expenditures on such routes.”.

13 (b) CHANGE OF REFERENCE.—Section 24308 is
 14 amended—

15 (1) by striking “Interstate Commerce Commis-
 16 sion” in subsection (a)(2)(A) and inserting “Surface
 17 Transportation Board”;

18 (2) by striking “Commission” each place it ap-
 19 pears and inserting “Board”;

20 (3) by striking “Secretary” the last 3 places it
 21 appears in subsection (c) and each place it appears
 22 in subsections (d) and (e) and inserting “Board”.

23 **SEC. 210. LONG DISTANCE ROUTES.**

24 (a) IN GENERAL.—Chapter 247 is amended by add-
 25 ing at the end thereof the following:

1 **“§ 24710. Long distance routes**

2 “(a) ANNUAL EVALUATION.—Using the financial and
3 performance metrics developed under section 208 of the
4 Passenger Rail Investment and Improvement Act of 2005,
5 Amtrak shall—

6 “(1) evaluate annually the financial and oper-
7 ating performance of each long distance passenger
8 rail route operated by Amtrak; and

9 “(2) rank the overall performance of such
10 routes for 2006 and identify each long distance pas-
11 senger rail route operated by Amtrak in 2006 ac-
12 cording to its overall performance as belonging to
13 the best performing third of such routes, the second
14 best performing third of such routes, or the worst
15 performing third of such routes.

16 “(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak
17 shall develop and publish a performance improvement plan
18 for its long distance passenger rail routes to achieve finan-
19 cial and operating improvements based on the data col-
20 lected through the application of the financial and per-
21 formance metrics developed under section 208 of that Act.
22 The plan shall address—

23 “(1) on-time performance;

24 “(2) scheduling, frequency, routes, and stops;

25 “(3) the feasibility of restructuring service into
26 connected corridor service;

1 “(4) performance-related equipment changes
2 and capital improvements;

3 “(5) on-board amenities and service, including
4 food, first class, and sleeping car service;

5 “(6) State or other non-Federal financial con-
6 tributions;

7 “(7) improving financial performance; and

8 “(8) other aspects of Amtrak’s long distance
9 passenger rail routes that affect the financial, com-
10 petitive, and functional performance of service on
11 Amtrak’s long distance passenger rail routes.

12 “(c) IMPLEMENTATION.—Amtrak shall implement
13 the performance improvement plan developed under sub-
14 section (b)—

15 “(1) beginning in fiscal year 2007 for those
16 routes identified as being in the worst performing
17 third under subsection (a)(2);

18 “(2) beginning in fiscal year 2008 for those
19 routes identified as being in the second best per-
20 forming third under subsection (a)(2); and

21 “(3) beginning in fiscal year 2009 for those
22 routes identified as being in the best performing
23 third under subsection (a)(2).

24 “(d) ENFORCEMENT.—The Federal Railroad Admin-
25 istration shall monitor the development, implementation,

1 and outcome of improvement plans under this section. If,
 2 for any year, it determines that Amtrak is not making
 3 reasonable progress in implementing its performance im-
 4 provement plan or in achieving the expected outcome of
 5 the plan for any calendar year, the Federal Railroad
 6 Administration—

7 “(1) shall notify Amtrak, the Inspector General
 8 of the Department of Transportation, and appro-
 9 priate Congressional committees of its determination
 10 under this subsection;

11 “(2) shall provide an opportunity for a hearing
 12 with respect to that determination; and

13 “(3) may withhold any appropriated funds oth-
 14 erwise available to Amtrak for the operation of a
 15 route or routes on which it is not making progress,
 16 other than funds made available for passenger safety
 17 or security measures.”.

18 (b) CONFORMING AMENDMENT.—The chapter anal-
 19 ysis for chapter 247 is amended by inserting after the item
 20 relating to section 24709 the following:

“24710. Long distance routes”.

21 **SEC. 211. ALTERNATE PASSENGER RAIL SERVICE PRO-**
 22 **GRAM.**

23 (a) IN GENERAL.—Chapter 247, as amended by sec-
 24 tion 209, is amended by adding at the end thereof the
 25 following:

1 **“§ 24711. Alternate passenger rail service program**

2 “(a) IN GENERAL.—Within 1 year after the date of
3 enactment of the Passenger Rail Investment and Improve-
4 ment Act of 2005, the Federal Railroad Administration
5 shall initiate a rulemaking proceeding to develop a pro-
6 gram under which—

7 “(1) a rail carrier or rail carriers that own in-
8 frastructure over which Amtrak operates a pas-
9 senger rail service route described in subparagraph
10 (B), (C), or (D) of section 24102(5) or in section
11 24702 of title 49, United States Code may petition
12 the Federal Railroad Administration to be consid-
13 ered as a passenger rail service provider over that
14 route in lieu of Amtrak;

15 “(2) the Administration would notify Amtrak
16 within 30 days after receiving a petition under para-
17 graph (1) and establish a deadline by which both the
18 petitioner and Amtrak would be required to submit
19 a bid to provide passenger rail service over the route
20 to which the petition relates;

21 “(3) each bid would describe how the bidder
22 would operate the route, what Amtrak passenger
23 equipment would be needed, if any, what sources of
24 non-Federal funding the bidder would use, including
25 any State subsidy, among other things;

1 “(4) the Administration would make a decision
2 and execute a contract within a specified, limited
3 time after that deadline awarding to the winning
4 bidder—

5 “(A) the right and obligation to provide
6 passenger rail service over that route subject to
7 such performance standards as the Administra-
8 tion may require, consistent with the standards
9 developed under section 208 of this division;
10 and

11 “(B) an operating subsidy—

12 “(i) for the first year at a level not in
13 excess of the level in effect during the fis-
14 cal year preceding the fiscal year in which
15 the petition was received, adjusted for in-
16 flation;

17 “(ii) for any subsequent years at such
18 level, adjusted for inflation; and

19 “(5) each bid would contain a staffing plan de-
20 scribing the number of employees needed to operate
21 the service, the job assignments and requirements,
22 and the terms of work for prospective and current
23 employees of the bidder for the service outlined in
24 the bid, and such staffing plan would be made avail-

1 able by the winning bidder to the public after the bid
2 award.

3 “(b) IMPLEMENTATION.—

4 “(1) INITIAL PETITIONS.—Pursuant to any
5 rules or regulations promulgated under subsection
6 (A), the Administration shall establish a deadline for
7 the submission of a petition under subsection (a)—

8 “(A) during fiscal year 2007 for operations
9 commencing in fiscal year 2008; and

10 “(B) during the immediately preceding fis-
11 cal year for operations commencing in subse-
12 quent fiscal years.

13 “(2) ROUTE LIMITATIONS.—The Administra-
14 tion may not make the program available with re-
15 spect to more than 1 Amtrak passenger rail route
16 for operations beginning in fiscal year 2008 nor to
17 more than 2 such routes for operations beginning in
18 fiscal year 2010 and subsequent fiscal years.

19 “(c) PERFORMANCE STANDARDS; ACCESS TO FACILI-
20 TIES; EMPLOYEES.—If the Administration awards the
21 right and obligation to provide passenger rail service over
22 a route under the program to a rail carrier or rail
23 carriers—

24 “(1) it shall execute a contract with the rail
25 carrier or rail carriers for rail passenger operations

1 on that route that conditions the operating and sub-
2 sidy rights upon—

3 “(A) the service provider continuing to
4 provide passenger rail service on the route that
5 is no less frequent, nor over a shorter distance,
6 than Amtrak provided on that route before the
7 award; and

8 “(B) the service provider’s compliance with
9 the minimum standards established under sec-
10 tion 208 of the Passenger Rail Investment and
11 Improvement Act of 2005 and such additional
12 performance standards as the Administration
13 may establish;

14 “(2) it shall, if the award is made to a rail car-
15 rier other than Amtrak, require Amtrak to provide
16 access to its reservation system, stations, and facili-
17 ties to any rail carrier or rail carriers awarded a
18 contract under this section, in accordance with sec-
19 tion 218 of that Act, necessary to carry out the pur-
20 poses of this section;

21 “(3) the employees of any person used by a rail
22 carrier or rail carriers (as defined in section
23 10102(5) of this title) in the operation of a route
24 under this section shall be considered an employee of
25 that carrier or carriers and subject to the applicable

1 Federal laws and regulations governing similar
2 crafts or classes of employees of Amtrak, including
3 provisions under section 121 of the Amtrak Reform
4 and Accountability Act of 1997 relating to employ-
5 ees that provide food and beverage service; and

6 “(4) the winning bidder shall provide preference
7 in hiring to qualified Amtrak employees displaced by
8 the award of the bid, consistent with the staffing
9 plan submitted by the bidder.

10 “(d) CESSATION OF SERVICE.—If a rail carrier or
11 rail carriers awarded a route under this section cease to
12 operate the service or fail to fulfill their obligations under
13 the contract required under subsection (c), the Adminis-
14 trator, in collaboration with the Surface Transportation
15 Board shall take any necessary action consistent with this
16 title to enforce the contract and ensure the continued pro-
17 vision of service, including the installment of an interim
18 service provider and re-bidding the contract to operate the
19 service. The entity providing service shall either be Am-
20 trak or a rail carrier defined in section 24711(a)(1).

21 “(e) ADEQUATE RESOURCES.—Before taking any ac-
22 tion allowed under this section, the Secretary shall certify
23 that the Administrator has sufficient resources that are
24 adequate to undertake the program established under this
25 section.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
 2 ysis for chapter 247, as amended by section 209, is
 3 amended by inserting after the item relating to section
 4 24710 the following:

“24711. Alternate passenger rail service program”.

5 **SEC. 212. EMPLOYEE TRANSITION ASSISTANCE.**

6 (a) PROVISION OF FINANCIAL INCENTIVES.—For
 7 Amtrak employees who are adversely affected by the ces-
 8 sation of the operation of a long distance route or any
 9 other route under section 24711 of title 49, United States
 10 Code, previously operated by Amtrak, the Secretary shall
 11 develop a program under which the Secretary may, in the
 12 Secretary’s discretion, provide grants for financial incen-
 13 tives to be provided to employees of the National Railroad
 14 Passenger Corporation who voluntarily terminate their
 15 employment with the Corporation and relinquish any legal
 16 rights to receive termination-related payments under any
 17 contractual agreement with the Corporation.

18 (b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a
 19 condition for receiving financial assistance grants under
 20 this section, the Corporation must certify that—

21 (1) a reasonable attempt was made to reassign
 22 an employee adversely affected under section 24711
 23 of title 49, United States Code, or by the elimination
 24 of any route, to other positions within the Corpora-
 25 tion in accordance with any contractual agreements;

1 (2) the financial assistance results in a net re-
2 duction in the total number of employees equal to
3 the number receiving financial incentives;

4 (3) the financial assistance results in a net re-
5 duction in total employment expense equivalent to
6 the total employment expenses associated with the
7 employees receiving financial incentives; and

8 (4) the total number of employees eligible for
9 termination-related payments will not be increased
10 without the express written consent of the Secretary.

11 (c) AMOUNT OF FINANCIAL INCENTIVES.—The fi-
12 nancial incentives authorized under this section may be
13 no greater than \$50,000 per employee.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are hereby authorized to be appropriated to the Secretary
16 such sums as may be necessary to make grants to the Na-
17 tional Railroad Passenger Corporation to provide financial
18 incentives under subsection (a).

19 (e) TERMINATION-RELATED PAYMENTS.—If Amtrak
20 employees adversely affected by the cessation of Amtrak
21 service resulting from the awarding of a grant to an oper-
22 ator other than Amtrak for the operation of a route under
23 section 24711 of title 49, United States Code, or any other
24 route, previously operated by Amtrak do not receive finan-
25 cial incentives under subsection (a), then the Secretary

1 shall make grants to the National Railroad Passenger Cor-
2 poration from funds authorized by section 102 of this divi-
3 sion for termination-related payments to employees under
4 existing contractual agreements.

5 **SEC. 213. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR**
6 **PLAN.**

7 (a) IN GENERAL.—Within 6 months after the date
8 of enactment of this Act, the National Railroad Passenger
9 Corporation, in consultation with the Secretary and the
10 States (including the District of Columbia) that make up
11 the Northeast Corridor (as defined in section 24102 of
12 title 49, United States Code), shall prepare a capital
13 spending plan for capital projects required to return the
14 Northeast Corridor to a state of good repair by the end
15 of fiscal year 2011, consistent with the funding levels au-
16 thorized in this division and shall submit the plan to the
17 Secretary.

18 (b) APPROVAL BY THE SECRETARY.—

19 (1) The Corporation shall submit the capital
20 spending plan prepared under this section to the
21 Secretary of Transportation for review and approval
22 pursuant to the procedures developed under section
23 205 of this division.

24 (2) The Secretary of Transportation shall re-
25 quire that the plan be updated at least annually and

1 shall review and approve such updates. During re-
2 view, the Secretary shall seek comments and review
3 from the commission established under section
4 24905 of title 49, United States Code, and other
5 Northeast Corridor users regarding the plan.

6 (3) The Secretary shall make grants to the Cor-
7 poration with funds authorized by section 101(b) for
8 Northeast Corridor capital investments contained
9 within the capital spending plan prepared by the
10 Corporation and approved by the Secretary.

11 (4) Using the funds authorized by section
12 101(d), the Secretary shall review Amtrak's capital
13 expenditures funded by this section to ensure that
14 such expenditures are consistent with the capital
15 spending plan and that Amtrak is providing ade-
16 quate project management oversight and fiscal con-
17 trols.

18 (c) ELIGIBILITY OF EXPENDITURES.—The Federal
19 share of expenditures for capital improvements under this
20 section may not exceed 100 percent.

21 **SEC. 214. NORTHEAST CORRIDOR INFRASTRUCTURE AND**
22 **OPERATIONS IMPROVEMENTS.**

23 (a) IN GENERAL.—Section 24905 is amended to read
24 as follows:

1 **“§ 24905. Northeast Corridor Infrastructure and Op-**
2 **erations Advisory Commission; Safety**
3 **and Security Committee.**

4 “(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND
5 OPERATIONS ADVISORY COMMISSION.—

6 “(1) Within 180 days after the date of enact-
7 ment of the Passenger Rail Investment and Im-
8 provement Act of 2005, the Secretary of Transpor-
9 tation shall establish a Northeast Corridor Infra-
10 structure and Operations Advisory Commission
11 (hereinafter referred to in this section as the ‘Com-
12 mission’) to promote mutual cooperation and plan-
13 ning pertaining to the rail operations and related ac-
14 tivities of the Northeast Corridor. The Commission
15 shall be made up of—

16 “(A) members representing the National
17 Railroad Passenger Corporation;

18 “(B) members representing the Secretary
19 of Transportation and the Federal Railroad Ad-
20 ministration;

21 “(C) 1 member from each of the States
22 (including the District of Columbia) that con-
23 stitute the Northeast Corridor as defined in sec-
24 tion 24102, designated by, and serving at the
25 pleasure of, the chief executive officer thereof;
26 and

1 “(D) non-voting representatives of freight
2 railroad carriers using the Northeast Corridor
3 selected by the Secretary.

4 “(2) The Secretary shall ensure that the mem-
5 bership belonging to any of the groups enumerated
6 under subparagraph (1) shall not constitute a major-
7 ity of the commission’s memberships.

8 “(3) The commission shall establish a schedule
9 and location for convening meetings, but shall meet
10 no less than four times per fiscal year, and the com-
11 mission shall develop rules and procedures to govern
12 the commission’s proceedings.

13 “(4) A vacancy in the Commission shall be
14 filled in the manner in which the original appoint-
15 ment was made.

16 “(5) Members shall serve without pay but shall
17 receive travel expenses, including per diem in lieu of
18 subsistence, in accordance with sections 5702 and
19 5703 of title 5, United States Code.

20 “(6) The Chairman of the Commission shall be
21 elected by the members.

22 “(7) The Commission may appoint and fix the
23 pay of such personnel as it considers appropriate.

24 “(8) Upon request of the Commission, the head
25 of any department or agency of the United States

1 may detail, on a reimbursable basis, any of the per-
2 sonnel of that department or agency to the Commis-
3 sion to assist it in carrying out its duties under this
4 section.

5 “(9) Upon the request of the Commission, the
6 Administrator of General Services shall provide to
7 the Commission, on a reimbursable basis, the admin-
8 istrative support services necessary for the Commis-
9 sion to carry out its responsibilities under this sec-
10 tion.

11 “(10) The commission shall consult with other
12 entities as appropriate.

13 “(b) GENERAL RECOMMENDATIONS.—The Commis-
14 sion shall develop recommendations concerning Northeast
15 Corridor rail infrastructure and operations including pro-
16 posals addressing, as appropriate—

17 “(1) short-term and long term capital invest-
18 ment needs beyond the state-of-good-repair under
19 section 213;

20 “(2) future funding requirements for capital
21 improvements and maintenance;

22 “(3) operational improvements of intercity pas-
23 senger rail, commuter rail, and freight rail services;

24 “(4) opportunities for additional non-rail uses
25 of the Northeast Corridor;

- 1 “(5) scheduling and dispatching;
2 “(6) safety and security enhancements;
3 “(7) equipment design;
4 “(8) marketing of rail services; and
5 “(9) future capacity requirements.

6 “(c) ACCESS COSTS.—

7 “(1) DEVELOPMENT OF FORMULA.—Within 1
8 year after verification of Amtrak’s new financial ac-
9 counting system pursuant to section 203(b) of the
10 Passenger Rail Investment and Improvement Act of
11 2005, the Commission shall—

12 “(A) develop a standardized formula for
13 determining and allocating costs, revenues, and
14 compensation for Northeast Corridor commuter
15 rail passenger transportation, as defined in sec-
16 tion 24102 of this title, that use National Rail-
17 road Passenger Corporation facilities or services
18 or that provide such facilities or services to the
19 National Railroad Passenger Corporation that
20 ensure that—

21 “(i) there is no cross-subsidization of
22 commuter rail passenger, intercity rail pas-
23 senger, or freight rail transportation; and

24 “(ii) each service is assigned the costs
25 incurred only for the benefit of that serv-

1 ice, and a proportionate share, based upon
2 factors that reasonably reflect relative use,
3 of costs incurred for the common benefit of
4 more than 1 service;

5 “(B) develop a proposed timetable for im-
6 plementing the formula before the end of the
7 6th year following the date of enactment of that
8 Act;

9 “(C) transmit the proposed timetable to
10 the Surface Transportation Board; and

11 “(D) at the request of a Commission mem-
12 ber, petition the Surface Transportation Board
13 to appoint a mediator to assist the Commission
14 members through non-binding mediation to
15 reach an agreement under this section.

16 “(2) IMPLEMENTATION.—The National Rail-
17 road Passenger Corporation and the commuter au-
18 thorities providing commuter rail passenger trans-
19 portation on the Northeast Corridor shall implement
20 new agreements for usage of facilities or services
21 based on the formula proposed in paragraph (1) in
22 accordance with the timetable established therein. If
23 the entities fail to implement such new agreements
24 in accordance with the timetable, the Commission
25 shall petition the Surface Transportation Board to

1 determine the appropriate compensation amounts for
2 such services in accordance with section 24904(e) of
3 this title. The Surface Transportation Board shall
4 enforce its determination on the party or parties in-
5 volved.

6 “(d) TRANSMISSION OF RECOMMENDATIONS.—The
7 commission shall annually transmit the recommendations
8 developed under subsection (b) and the formula and time-
9 table developed under subsection (c)(1) to the Senate
10 Committee on Commerce, Science, and Transportation
11 and the House of Representatives Committee on Trans-
12 portation and Infrastructure.

13 “(e) NORTHEAST CORRIDOR SAFETY AND SECURITY
14 COMMITTEE.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish a Northeast Corridor Safety and Security Com-
17 mittee composed of members appointed by the Sec-
18 retary. The members shall be representatives of—

19 “(A) the Secretary;

20 “(B) Amtrak;

21 “(C) freight carriers operating more than
22 150,000 train miles a year on the main line of
23 the Northeast Corridor;

24 “(D) commuter agencies;

25 “(E) rail passengers;

1 “(F) rail labor;

2 “(G) the Transportation Security Adminis-
3 tration; and

4 “(H) other individuals and organizations
5 the Secretary decides have a significant interest
6 in rail safety or security.

7 “(2) FUNCTION; MEETINGS.—The Secretary
8 shall consult with the Committee about safety and
9 security improvements on the Northeast Corridor
10 main line. The Committee shall meet at least once
11 every 2 years to consider safety matters on the main
12 line.

13 “(3) REPORT.—At the beginning of the first
14 session of each Congress, the Secretary shall submit
15 a report to the Commission and to Congress on the
16 status of efforts to improve safety and security on
17 the Northeast Corridor main line. The report shall
18 include the safety recommendations of the Com-
19 mittee and the comments of the Secretary on those
20 recommendations.”.

21 (3) CONFORMING AMENDMENTS.—Section
22 24904(c)(2) is amended by—

23 (A) inserting “commuter rail passenger”
24 after “between”; and

1 (B) striking “freight” in the second sen-
2 tence.

3 **SEC. 215. RESTRUCTURING LONG-TERM DEBT AND CAP-**
4 **ITAL LEASES.**

5 (a) IN GENERAL.—The Secretary of the Treasury, in
6 consultation with the Secretary of Transportation and
7 Amtrak, may make agreements to restructure Amtrak’s
8 indebtedness as of the date of enactment of this Act. This
9 authorization expires on January 1, 2007.

10 (b) DEBT RESTRUCTURING.—The Secretary of
11 Treasury, in consultation with the Secretary of the Trans-
12 portation and Amtrak, shall enter into negotiations with
13 the holders of Amtrak debt, including leases, outstanding
14 on the date of enactment of this Act for the purpose of
15 restructuring (including repayment) and repaying that
16 debt. The Secretary of the Treasury may secure agree-
17 ments for restructuring or repayment on such terms as
18 the Secretary of the Treasury deems favorable to the in-
19 terests of the Government.

20 (c) CRITERIA.—In restructuring Amtrak’s indebted-
21 ness, the Secretary and Amtrak—

22 (1) shall take into consideration repayment
23 costs, the term of any loan or loans, and market
24 conditions; and

1 (2) shall ensure that the restructuring results
2 in significant savings to Amtrak and the United
3 States Government.

4 (d) PAYMENT OF RENEGOTIATED DEBT.—If the cri-
5 teria under subsection (c) are met, the Secretary of Treas-
6 ury shall assume or repay the restructured debt, as appro-
7 priate.

8 (e) AMTRAK PRINCIPAL AND INTEREST PAY-
9 MENTS.—

10 (1) PRINCIPAL ON DEBT SERVICE.—Unless the
11 Secretary of Treasury makes sufficient payments to
12 creditors under subsection (d) so that Amtrak is re-
13 quired to make no payments to creditors in a fiscal
14 year, the Secretary of Transportation shall use
15 funds authorized by section 103(a)(1) for the use of
16 Amtrak for retirement of principal on loans for cap-
17 ital equipment, or capital leases.

18 (2) INTEREST ON DEBT.—Unless the Secretary
19 of Treasury makes sufficient payments to creditors
20 under subsection (d) so that Amtrak is required to
21 make no payments to creditors in a fiscal year, the
22 Secretary of Transportation shall use funds author-
23 ized by section 103(a)(2) for the use of Amtrak for
24 the payment of interest on loans for capital equip-
25 ment, or capital leases.

1 (3) REDUCTIONS IN AUTHORIZATION LEVELS.—

2 Whenever action taken by the Secretary of the
3 Treasury under subsection (a) results in reductions
4 in amounts of principal or interest that Amtrak
5 must service on existing debt, the corresponding
6 amounts authorized by section 103(a)(1) or (2) shall
7 be reduced accordingly.

8 (f) LEGAL EFFECT OF PAYMENTS UNDER THIS SEC-
9 TION.—The payment of principal and interest on secured
10 debt, other than debt assumed under subsection (d), with
11 the proceeds of grants under subsection (e) shall not—

12 (1) modify the extent or nature of any indebt-
13 edness of the National Railroad Passenger Corpora-
14 tion to the United States in existence of the date of
15 enactment of this Act;

16 (2) change the private nature of Amtrak's or its
17 successors' liabilities; or

18 (3) imply any Federal guarantee or commit-
19 ment to amortize Amtrak's outstanding indebted-
20 ness.

21 (g) SECRETARY APPROVAL.—Amtrak may not incur
22 more debt after the date of enactment of this Act without
23 the express advance approval of the Secretary of Trans-
24 portation.

1 (h) REPORT.—The Secretary of the Treasury shall
2 transmit a report to the Senate Committee on Commerce,
3 Science, and Transportation, the Senate Committee on
4 Appropriations, the House of Representatives Committee
5 on Transportation and Infrastructure, and the House of
6 Representatives Committee on Appropriations by June 1,
7 2007—

8 (1) describing in detail any agreements to re-
9 structure the Amtrak debt; and

10 (2) providing an estimate of the savings to Am-
11 trak and the United States Government.

12 **SEC. 216. STUDY OF COMPLIANCE REQUIREMENTS AT EX-**
13 **ISTING INTERCITY RAIL STATIONS.**

14 Amtrak, in consultation with station owners, shall
15 evaluate the improvements necessary to make all existing
16 stations it serves readily accessible to and usable by indi-
17 viduals with disabilities, as required by section 242(e)(2)
18 of the Americans with Disabilities Act of 1990 (42 U.S.C.
19 12162(e)(2)). The evaluation shall include the estimated
20 cost of the improvements necessary, the identification of
21 the responsible person (as defined in section 241(5) of
22 that Act (42 U.S.C. 12161(5))), and the earliest prac-
23 ticable date when such improvements can be made. Am-
24 trak shall submit the evaluation to the Senate Committee
25 on Commerce, Science, and Transportation, the House of

1 Representatives Committee on Transportation and Infra-
2 structure, and the National Council on Disability by Sep-
3 tember 30, 2007, along with recommendations for funding
4 the necessary improvements.

5 **SEC. 217. INCENTIVE PAY.**

6 The Amtrak Board of Directors is encouraged to de-
7 velop an incentive pay program for Amtrak management
8 employees.

9 **SEC. 218. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.**

10 If a State desires to select or selects an entity other
11 than Amtrak to provide services required for the operation
12 of an intercity passenger train route described in section
13 24102(5)(D) or 24702 of title 49, United States Code,
14 the State may make an agreement with Amtrak to use
15 facilities and equipment of, or have services provided by,
16 Amtrak under terms agreed to by the State and Amtrak
17 to enable the State to utilize an entity other than Amtrak
18 to provide services required for operation of the route. If
19 the parties cannot agree upon terms, and the Surface
20 Transportation Board finds that access to Amtrak's facili-
21 ties or equipment, or the provision of services by Amtrak,
22 is necessary to carry out this provision and that the oper-
23 ation of Amtrak's other services will not be impaired
24 thereby, the Surface Transportation Board shall, within
25 120 days after submission of the dispute, issue an order

1 that the facilities and equipment be made available, and
2 that services be provided, by Amtrak, and shall determine
3 reasonable compensation, liability and other terms for use
4 of the facilities and equipment and provision of the serv-
5 ices. Compensation shall be determined in accord with the
6 methodology established pursuant to section 206 of this
7 division.

8 **SEC. 219. GENERAL AMTRAK PROVISIONS.**

9 (a) **REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.**

10 (1) **TITLE 49 AMENDMENTS.**—Chapter 241 is
11 amended—

12 (A) by striking the last sentence of section
13 24101(d); and

14 (B) by striking the last sentence of section
15 24104(a).

16 (2) **AMTRAK REFORM AND ACCOUNTABILITY**
17 **ACT AMENDMENTS.**—Title II of the Amtrak Reform
18 and Accountability Act of 1997 (49 U.S.C. 24101
19 nt) is amended by striking sections 204 and 205.

20 (3) **COMMON STOCK REDEMPTION DATE.**—Sec-
21 tion 415 of the Amtrak Reform and Accountability
22 Act of 1997 (49 U.S.C. 24304 nt) is amended by
23 striking subsection (b).

24 (b) **LEASE ARRANGEMENTS.**—Amtrak may obtain
25 services from the Administrator of General Services, and

1 the Administrator may provide services to Amtrak, under
2 section 201(b) and 211(b) of the Federal Property and
3 Administrative Service Act of 1949 (40 U.S.C. 481(b) and
4 491(b)) for each of fiscal years 2006 through 2011.

5 **SEC. 220. PRIVATE SECTOR FUNDING OF PASSENGER**
6 **TRAINS.**

7 Amtrak is encouraged to increase its operation of
8 trains funded by the private sector in order to minimize
9 its need for Federal subsidies. Amtrak shall utilize the
10 provisions of section 24308 of title 49, United States
11 Code, when necessary to obtain access to facilities, train
12 and engine crews, or services of a rail carrier or regional
13 transportation authority that are required to operate such
14 trains.

15 **SEC. 221. ON-BOARD SERVICE IMPROVEMENTS.**

16 (a) IN GENERAL.—Within 1 year after metrics and
17 standards are established under section 208 of this divi-
18 sion, Amtrak shall develop and implement a plan to im-
19 prove on-board service pursuant to the metrics and stand-
20 ards for such service developed under that section.

21 (b) REPORT.—Amtrak shall provide a report to the
22 Senate Committee on Commerce, Science, and Transpor-
23 tation and the House of Representatives Committee on
24 Transportation and Infrastructure on the on-board service

1 improvements proscribed in the plan and the timeline for
 2 implementing such improvements.

3 **SEC. 222. AMTRAK MANAGEMENT ACCOUNTABILITY.**

4 (a) IN GENERAL.—Chapter 243 is amended by in-
 5 serting after section 24309 the following:

6 **“§ 24310. Management accountability**

7 “(a) IN GENERAL.—Three years after the date of en-
 8 actment of the Passenger Rail Investment and Improve-
 9 ment Act of 2005, and two years thereafter, the Inspector
 10 General of the Department of Transportation shall com-
 11 plete an overall assessment of the progress made by Am-
 12 trak management and the Department of Transportation
 13 in implementing the provisions of that Act.

14 “(b) ASSESSMENT.—The management assessment
 15 undertaken by the Inspector General may include a review
 16 of—

17 “(1) effectiveness improving annual financial
 18 planning;

19 “(2) effectiveness in implementing improved fi-
 20 nancial accounting;

21 “(3) efforts to implement minimum train per-
 22 formance standards;

23 “(4) progress maximizing revenues and mini-
 24 mizing Federal subsidies; and

1 “(5) any other aspect of Amtrak operations the
2 Inspector General finds appropriate to review.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
4 ysis for chapter 243 is amended by inserting after the item
5 relating to section 24309 the following:

“24310. Management accountability”.

6 **TITLE III—INTERCITY**
7 **PASSENGER RAIL POLICY**

8 **SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PAS-**
9 **SENGER RAIL SERVICE.**

10 (a) IN GENERAL.—Part C of subtitle V is amended
11 by inserting the following after chapter 243:

“CHAPTER 244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR
CAPITAL ASSISTANCE

“Sec.

“24401. Definitions.

“24402. Capital investment grants to support intercity passenger rail service.

“24403. Project management oversight

“24404. Use of capital grants to finance first-dollar liability of grant project.

“24405. Grant conditions.

12 **“§ 24401. Definitions**

13 “In this subchapter:

14 “(1) APPLICANT.—The term ‘applicant’ means
15 a State (including the District of Columbia), a group
16 of States, an Interstate Compact, or a public agency
17 established by one or more States and having re-
18 sponsibility for providing intercity passenger rail
19 service.

1 “(2) CAPITAL PROJECT.—The term ‘capital
2 project’ means a project or program in a State rail
3 plan developed under chapter 225 of this title for—

4 “(A) acquiring, constructing, improving, or
5 inspecting equipment, track and track struc-
6 tures, or a facility for use in or for the primary
7 benefit of intercity passenger rail service, ex-
8 penses incidental to the acquisition or construc-
9 tion (including designing, engineering, location
10 surveying, mapping, environmental studies, and
11 acquiring rights-of-way), payments for the cap-
12 ital portions of rail trackage rights agreements,
13 highway-rail grade crossing improvements re-
14 lated to intercity passenger rail service, secu-
15 rity, mitigating environmental impacts, commu-
16 nication and signalization improvements, reloca-
17 tion assistance, acquiring replacement housing
18 sites, and acquiring, constructing, relocating,
19 and rehabilitating replacement housing;

20 “(B) rehabilitating, remanufacturing or
21 overhauling rail rolling stock and facilities used
22 primarily in intercity passenger rail service;

23 “(C) costs associated with developing State
24 rail plans; and

1 “(D) the first-dollar liability costs for in-
2 surance related to the provision of intercity pas-
3 senger rail service under section 24404.

4 “(3) INTERCITY PASSENGER RAIL SERVICE.—
5 The term ‘intercity passenger rail service’ means
6 transportation services with the primary purpose of
7 passenger transportation between towns, cities and
8 metropolitan areas by rail, including high-speed rail,
9 as defined in section 24102 of title 49, United
10 States Code.

11 **“§ 24402. Capital investment grants to support inter-**
12 **city passenger rail service.**

13 “(a) GENERAL AUTHORITY.—

14 “(1) The Secretary of Transportation may
15 make grants under this section to an applicant to
16 assist in financing the capital costs of facilities and
17 equipment necessary to provide or improve intercity
18 passenger rail transportation.

19 “(2) The Secretary shall require that a grant
20 under this section be subject to the terms, condi-
21 tions, requirements, and provisions the Secretary de-
22 cides are necessary or appropriate for the purposes
23 of this section, including requirements for the dis-
24 position of net increases in value of real property re-
25 sulting from the project assisted under this section

1 and shall prescribe procedures and schedules for the
2 awarding of grants under this title, including appli-
3 cation and qualification procedures and a record of
4 decision on applicant eligibility. The Secretary shall
5 issue a final rule establishing such procedures not
6 later than 90 days after the date of enactment of
7 the Passenger Rail Investment and Improvement
8 Act of 2005.

9 “(b) PROJECT AS PART OF STATE RAIL PLAN.—

10 “(1) The Secretary may not approve a grant for
11 a project under this section unless the Secretary
12 finds that the project is part of a State rail plan de-
13 veloped under chapter 225 of this title, or under the
14 plan required by section 203 of the Passenger Rail
15 Investment and Improvement Act of 2005, and that
16 the applicant or recipient has or will have the legal,
17 financial, and technical capacity to carry out the
18 project, satisfactory continuing control over the use
19 of the equipment or facilities, and the capability and
20 willingness to maintain the equipment or facilities.

21 “(2) An applicant shall provide sufficient infor-
22 mation upon which the Secretary can make the find-
23 ings required by this subsection.

24 “(3) If an applicant has not selected the pro-
25 posed operator of its service competitively, the appli-

1 cant shall provide written justification to the Sec-
2 retary showing why the proposed operator is the
3 best, taking into account price and other factors,
4 and that use of the proposed operator will not un-
5 necessarily increase the cost of the project.

6 “(c) PROJECT SELECTION CRITERIA.—The Sec-
7 retary, in selecting the recipients of financial assistance
8 to be provided under subsection (a), shall—

9 “(1) require that each proposed project meet all
10 safety and security requirements that are applicable
11 to the project under law;

12 “(2) give preference to projects with high levels
13 of estimated ridership, increased on-time perform-
14 ance, reduced trip time, additional service frequency
15 to meet anticipated or existing demand, or other sig-
16 nificant service enhancements as measured against
17 minimum standards developed under section 208 of
18 the Passenger Rail Investment and Improvement
19 Act of 2005;

20 “(3) encourage intermodal connectivity through
21 projects that provide direct connections between
22 train stations, airports, bus terminals, subway sta-
23 tions, ferry ports, and other modes of transpor-
24 tation;

1 “(4) ensure that each project is compatible
2 with, and is operated in conformance with—

3 “(A) plans developed pursuant to the re-
4 quirements of section 135 of title 23, United
5 States Code; and

6 “(B) the national rail plan (if it is avail-
7 able); and

8 “(5) favor the following kinds of projects:

9 “(A) Projects that are expected to have a
10 significant favorable impact on air or highway
11 traffic congestion, capacity, or safety.

12 “(B) Projects that also improve freight or
13 commuter rail operations.

14 “(C) Projects that have significant envi-
15 ronmental benefits.

16 “(D) Projects that are—

17 “(i) at a stage of preparation that all
18 pre-commencement compliance with envi-
19 ronmental protection requirements has al-
20 ready been completed; and

21 “(ii) ready to be commenced.

22 “(E) Projects with positive economic and
23 employment impacts.

24 “(F) Projects that encourage the use of
25 positive train control technologies.

1 “(G) Projects that have commitments of
2 funding from non-Federal Government sources
3 in a total amount that exceeds the minimum
4 amount of the non-Federal contribution re-
5 quired for the project.

6 “(H) Projects that involve donated prop-
7 erty interests or services.

8 “(I) Projects that are identified by the
9 Surface Transportation Board as necessary to
10 improve the on time performance and reliability
11 of intercity passenger rail under section
12 24308(f).

13 “(d) AMTRAK ELIGIBILITY.—To receive a grant
14 under this section, the National Railroad Passenger Cor-
15 poration may enter into a cooperative agreement with 1
16 or more States to carry out 1 or more projects on a State
17 rail plan’s ranked list of rail capital projects developed
18 under section 22504(a)(5) of this title.

19 “(e) LETTERS OF INTENT, FULL FUNDING GRANT
20 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
21 MENTS.—

22 “(1)(A) The Secretary may issue a letter of in-
23 tent to an applicant announcing an intention to obli-
24 gate, for a major capital project under this section,
25 an amount from future available budget authority

1 specified in law that is not more than the amount
2 stipulated as the financial participation of the Sec-
3 retary in the project.

4 “(B) At least 30 days before issuing a let-
5 ter under subparagraph (A) of this paragraph
6 or entering into a full funding grant agreement,
7 the Secretary shall notify in writing the Com-
8 mittee on Transportation and Infrastructure of
9 the House of Representatives and the Com-
10 mittee on Commerce, Science, and Transpor-
11 tation of the Senate and the House and Senate
12 Committees on Appropriations of the proposed
13 letter or agreement. The Secretary shall include
14 with the notification a copy of the proposed let-
15 ter or agreement as well as the evaluations and
16 ratings for the project.

17 “(C) An obligation or administrative com-
18 mitment may be made only when amounts are
19 appropriated.

20 “(2)(A) The Secretary may make a full funding
21 grant agreement with an applicant. The agreement
22 shall—

23 “(i) establish the terms of participa-
24 tion by the United States Government in a
25 project under this section;

1 “(ii) establish the maximum amount
2 of Government financial assistance for the
3 project;

4 “(iii) cover the period of time for com-
5 pleting the project, including a period ex-
6 tending beyond the period of an authoriza-
7 tion; and

8 “(iv) make timely and efficient man-
9 agement of the project easier according to
10 the law of the United States.

11 “(B) An agreement under this paragraph
12 obligates an amount of available budget author-
13 ity specified in law and may include a commit-
14 ment, contingent on amounts to be specified in
15 law in advance for commitments under this
16 paragraph, to obligate an additional amount
17 from future available budget authority specified
18 in law. The agreement shall state that the con-
19 tingent commitment is not an obligation of the
20 Government and is subject to the availability of
21 appropriations made by Federal law and to
22 Federal laws in force on or enacted after the
23 date of the contingent commitment. Interest
24 and other financing costs of efficiently carrying
25 out a part of the project within a reasonable

1 time are a cost of carrying out the project
2 under a full funding grant agreement, except
3 that eligible costs may not be more than the
4 cost of the most favorable financing terms rea-
5 sonably available for the project at the time of
6 borrowing. The applicant shall certify, in a way
7 satisfactory to the Secretary, that the applicant
8 has shown reasonable diligence in seeking the
9 most favorable financing terms.

10 “(3)(A) The Secretary may make an early sys-
11 tems work agreement with an applicant if a record
12 of decision under the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4321 et seq.) has been
14 issued on the project and the Secretary finds there
15 is reason to believe—

16 “(i) a full funding grant agreement
17 for the project will be made; and

18 “(ii) the terms of the work agreement
19 will promote ultimate completion of the
20 project more rapidly and at less cost.

21 “(B) A work agreement under this para-
22 graph obligates an amount of available budget
23 authority specified in law and shall provide for
24 reimbursement of preliminary costs of carrying
25 out the project, including land acquisition, time-

1 ly procurement of system elements for which
2 specifications are decided, and other activities
3 the Secretary decides are appropriate to make
4 efficient, long-term project management easier.
5 A work agreement shall cover the period of time
6 the Secretary considers appropriate. The period
7 may extend beyond the period of current au-
8 thorization. Interest and other financing costs
9 of efficiently carrying out the work agreement
10 within a reasonable time are a cost of carrying
11 out the agreement, except that eligible costs
12 may not be more than the cost of the most fa-
13 vorable financing terms reasonably available for
14 the project at the time of borrowing. The appli-
15 cant shall certify, in a way satisfactory to the
16 Secretary, that the applicant has shown reason-
17 able diligence in seeking the most favorable fi-
18 nancing terms. If an applicant does not carry
19 out the project for reasons within the control of
20 the applicant, the applicant shall repay all Gov-
21 ernment payments made under the work agree-
22 ment plus reasonable interest and penalty
23 charges the Secretary establishes in the agree-
24 ment.

1 “(4) The total estimated amount of future obli-
2 gations of the Government and contingent commit-
3 ments to incur obligations covered by all outstanding
4 letters of intent, full funding grant agreements, and
5 early systems work agreements may be not more
6 than the amount authorized under section 101(c) of
7 Passenger Rail Investment and Improvement Act of
8 2005, less an amount the Secretary reasonably esti-
9 mates is necessary for grants under this section not
10 covered by a letter. The total amount covered by
11 new letters and contingent commitments included in
12 full funding grant agreements and early systems
13 work agreements may be not more than a limitation
14 specified in law.

15 “(f) FEDERAL SHARE OF NET PROJECT COST.—

16 “(1)(A) Based on engineering studies, studies
17 of economic feasibility, and information on the ex-
18 pected use of equipment or facilities, the Secretary
19 shall estimate the net project cost.

20 “(B) A grant for the project shall not ex-
21 ceed 80 percent of the project net capital cost.

22 “(C) The Secretary shall give priority in
23 allocating future obligations and contingent
24 commitments to incur obligations to grant re-

1 quests seeking a lower Federal share of the
2 project net capital cost.

3 “(2) Up to an additional 20 percent of the re-
4 quired non-Federal funds may be funded from
5 amounts appropriated to or made available to a de-
6 partment or agency of the Federal Government that
7 are eligible to be expended for transportation.

8 “(3) 50 percent of the average amounts ex-
9 pended by a State or group of States (including the
10 District of Columbia) for capital projects to benefit
11 intercity passenger rail service in fiscal years 2003,
12 2004, and 2005 shall be credited towards the match-
13 ing requirements for grants awarded under this sec-
14 tion. The Secretary may require such information as
15 necessary to verify such expenditures.

16 “(4) 50 percent of the average amounts ex-
17 pended by a State or group of States (including the
18 District of Columbia) in a fiscal year beginning in
19 2006 for capital projects to benefit intercity pas-
20 senger rail service or for the operating costs of such
21 service above the average of expenditures made for
22 such service in fiscal years 2003, 2004, and 2005
23 shall be credited towards the matching requirements
24 for grants awarded under this section. The Secretary

1 may require such information as necessary to verify
2 such expenditures.

3 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

4 “(1) The Secretary may pay the Federal share
5 of the net capital project cost to an applicant that
6 carries out any part of a project described in this
7 section according to all applicable procedures and re-
8 quirements if—

9 “(A) the applicant applies for the payment;

10 “(B) the Secretary approves the payment;

11 and

12 “(C) before carrying out the part of the
13 project, the Secretary approves the plans and
14 specifications for the part in the same way as
15 other projects under this section.

16 “(2) The cost of carrying out part of a project
17 includes the amount of interest earned and payable
18 on bonds issued by the applicant to the extent pro-
19 ceeds of the bonds are expended in carrying out the
20 part. However, the amount of interest under this
21 paragraph may not be more than the most favorable
22 interest terms reasonably available for the project at
23 the time of borrowing. The applicant shall certify, in
24 a manner satisfactory to the Secretary, that the ap-

1 plicant has shown reasonable diligence in seeking the
2 most favorable financial terms.

3 “(3) The Secretary shall consider changes in
4 capital project cost indices when determining the es-
5 timated cost under paragraph (2) of this subsection.

6 “(h) 2-YEAR AVAILABILITY.—Funds appropriated
7 under this section shall remain available until expended.
8 If any amount provided as a grant under this section is
9 not obligated or expended for the purposes described in
10 subsection (a) within 2 years after the date on which the
11 State received the grant, such sums shall be returned to
12 the Secretary for other intercity passenger rail develop-
13 ment projects under this section at the discretion of the
14 Secretary.

15 “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

16 “(1) IN GENERAL.—A metropolitan planning
17 organization, State transportation department, or
18 other project sponsor may enter into an agreement
19 with any public, private, or nonprofit entity to coop-
20 eratively implement any project funded with a grant
21 under this title.

22 “(2) FORMS OF PARTICIPATION.—Participation
23 by an entity under paragraph (1) may consist of—

1 “(A) ownership or operation of any land,
2 facility, locomotive, rail car, vehicle, or other
3 physical asset associated with the project;

4 “(B) cost-sharing of any project expense;

5 “(C) carrying out administration, construc-
6 tion management, project management, project
7 operation, or any other management or oper-
8 ational duty associated with the project; and

9 “(D) any other form of participation ap-
10 proved by the Secretary.

11 “(3) SUB-ALLOCATION.—A State may allocate
12 funds under this section to any entity described in
13 paragraph (1).

14 “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—
15 In carrying out this section, the Secretary shall allocate
16 an appropriate portion of the amounts available under this
17 section to provide grants to States—

18 “(1) in which there is no intercity passenger
19 rail service for the purpose of funding freight rail
20 capital projects that are on a State rail plan devel-
21 oped under chapter 225 of this title that provide
22 public benefits (as defined in chapter 225) as deter-
23 mined by the Secretary; or

24 “(2) in which the rail transportation system is
25 not physically connected to rail systems in the conti-

1 mental United States or may not otherwise qualify
2 for a grant under this section due to the unique
3 characteristics of the geography of that State or
4 other relevant considerations, for the purpose of
5 funding transportation-related capital projects.

6 “(k) SMALL CAPITAL PROJECTS.—The Secretary
7 shall make available \$10,000,000 annually from the
8 amounts authorized under section 101(c) of the Passenger
9 Rail Investment and Improvement Act of 2005 beginning
10 in fiscal year 2007 for grants for capital projects eligible
11 under this section not exceeding \$2,000,000, including
12 costs eligible under section 206(c) of that Act. The Sec-
13 retary may wave requirements of this section, including
14 state rail plan requirements, as appropriate.

15 **“§ 24403. Project management oversight**

16 “(a) PROJECT MANAGEMENT PLAN REQUIRE-
17 MENTS.—To receive Federal financial assistance for a
18 major capital project under this subchapter, an applicant
19 must prepare and carry out a project management plan
20 approved by the Secretary of Transportation. The plan
21 shall provide for—

22 “(1) adequate recipient staff organization with
23 well-defined reporting relationships, statements of
24 functional responsibilities, job descriptions, and job
25 qualifications;

1 “(2) a budget covering the project management
2 organization, appropriate consultants, property ac-
3 quisition, utility relocation, systems demonstration
4 staff, audits, and miscellaneous payments the recipi-
5 ent may be prepared to justify;

6 “(3) a construction schedule for the project;

7 “(4) a document control procedure and record-
8 keeping system;

9 “(5) a change order procedure that includes a
10 documented, systematic approach to handling the
11 construction change orders;

12 “(6) organizational structures, management
13 skills, and staffing levels required throughout the
14 construction phase;

15 “(7) quality control and quality assurance func-
16 tions, procedures, and responsibilities for construc-
17 tion, system installation, and integration of system
18 components;

19 “(8) material testing policies and procedures;

20 “(9) internal plan implementation and reporting
21 requirements;

22 “(10) criteria and procedures to be used for
23 testing the operational system or its major compo-
24 nents;

1 “(11) periodic updates of the plan, especially
2 related to project budget and project schedule, fi-
3 nancing, and ridership estimates; and

4 “(12) the recipient’s commitment to submit a
5 project budget and project schedule to the Secretary
6 each month.

7 “(b) SECRETARIAL OVERSIGHT.—

8 “(1) The Secretary may use no more than 0.5
9 percent of amounts made available in a fiscal year
10 for capital projects under this subchapter to enter
11 into contracts to oversee the construction of such
12 projects.

13 “(2) The Secretary may use amounts available
14 under paragraph (1) of this subsection to make con-
15 tracts for safety, procurement, management, and fi-
16 nancial compliance reviews and audits of a recipient
17 of amounts under paragraph (1).

18 “(3) The Federal Government shall pay the en-
19 tire cost of carrying out a contract under this sub-
20 section.

21 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
22 ent of assistance under this subchapter shall provide the
23 Secretary and a contractor the Secretary chooses under
24 subsection (c) of this section with access to the construc-

1 tion sites and records of the recipient when reasonably
2 necessary.

3 **“§ 24404. Use of capital grants to finance first-dollar**
4 **liability of grant project**

5 “Notwithstanding the requirements of section 24402
6 of this subchapter, the Secretary of Transportation may
7 approve the use of capital assistance under this sub-
8 chapter to fund self-insured retention of risk for the first
9 tier of liability insurance coverage for rail passenger serv-
10 ice associated with the capital assistance grant, but the
11 coverage may not exceed \$20,000,000 per occurrence or
12 \$20,000,000 in aggregate per year.

13 **“§ 24405. Grant conditions**

14 “(a) DOMESTIC BUYING PREFERENCE.—

15 “(1) REQUIREMENT.—

16 “(A) IN GENERAL.—In carrying out a
17 project funded in whole or in part with a grant
18 under this title, the grant recipient shall pur-
19 chase only—

20 “(i) unmanufactured articles, mate-
21 rial, and supplies mined or produced in the
22 United States; or

23 “(ii) manufactured articles, material,
24 and supplies manufactured in the United
25 States substantially from articles, material,

1 and supplies mined, produced, or manufac-
2 tured in the United States.

3 “(B) DE MINIMIS AMOUNT.—Subpara-
4 graph (1) applies only to a purchase in an total
5 amount that is not less than \$1,000,000.

6 “(2) EXEMPTIONS.—On application of a recipi-
7 ent, the Secretary may exempt a recipient from the
8 requirements of this subsection if the Secretary de-
9 cides that, for particular articles, material, or
10 supplies—

11 “(A) such requirements are inconsistent
12 with the public interest;

13 “(B) the cost of imposing the requirements
14 is unreasonable; or

15 “(C) the articles, material, or supplies, or
16 the articles, material, or supplies from which
17 they are manufactured, are not mined, pro-
18 duced, or manufactured in the United States in
19 sufficient and reasonably available commercial
20 quantities and are not of a satisfactory quality.

21 “(3) UNITED STATES DEFINED.—In this sub-
22 section, the term ‘the United States’ means the
23 States, territories, and possessions of the United
24 States and the District of Columbia.

1 “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-
2 PLOYERS FOR CERTAIN PURPOSES.—A person that con-
3 ducts rail operations over rail infrastructure constructed
4 or improved with funding provided in whole or in part in
5 a grant made under this title shall be considered a rail
6 carrier as defined in section 10102(5) of this title for pur-
7 poses of this title and any other statute that adopts the
8 that definition or in which that definition applies,
9 including—

10 “(1) the Railroad Retirement Act of 1974 (45
11 U.S.C. 231 et seq.); and

12 “(2) the Railway Labor Act (43 U.S.C. 151 et
13 seq.).

14 “(c) GRANT CONDITIONS.—The Secretary shall re-
15 quire as a condition of making any grant under this title
16 for a project that uses rights-of-way owned by a railroad
17 that—

18 “(1) a written agreement exist between the ap-
19 plicant and the railroad regarding such use and
20 ownership, including—

21 “(A) any compensation for such use;

22 “(B) assurances regarding the adequacy of
23 infrastructure capacity to accommodate both
24 existing and future freight and passenger oper-
25 ations; and

1 “(C) an assurance by the railroad that col-
2 lective bargaining agreements with the rail-
3 road’s employees (including terms regulating
4 the contracting of work) will remain in full
5 force and effect according to their terms for
6 work performed by the railroad on the railroad
7 transportation corridor;

8 “(D) an assurance that an applicant com-
9 plies with liability requirements consistent with
10 section 28103 of this title; and

11 “(2) the applicant agrees to comply with—

12 “(A) the standards of section 24312 of this
13 title, as such section was in effect on September
14 1, 2003, with respect to the project in the same
15 manner that the National Railroad Passenger
16 Corporation is required to comply with those
17 standards for construction work financed under
18 an agreement made under section 24308(a) of
19 this title; and

20 “(B) the protective arrangements estab-
21 lished under section 504 of the Railroad Revi-
22 talization and Regulatory Reform Act of 1976
23 (45 U.S.C. 836) with respect to employees af-
24 fected by actions taken in connection with the

1 project to be financed in whole or in part by
2 grants under this subchapter.

3 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
4 Senger Rail Service.—

5 “(1) COLLECTIVE BARGAINING AGREEMENT
6 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any
7 entity providing intercity passenger railroad trans-
8 portation that begins operations after the date of en-
9 actment of this Act on a project funded in whole or
10 in part by grants made under this title and replaces
11 intercity rail passenger service that was provided by
12 Amtrak, unless such service was provided solely by
13 Amtrak to another entity, as of such date shall enter
14 into an agreement with the authorized bargaining
15 agent or agents for adversely affected employees of
16 the predecessor provider that—

17 “(A) gives each such qualified employee of
18 the predecessor provider priority in hiring ac-
19 cording to the employee’s seniority on the pred-
20 ecessor provider for each position with the re-
21 placing entity that is in the employee’s craft or
22 class and is available within 3 years after the
23 termination of the service being replaced;

24 “(B) establishes a procedure for notifying
25 such an employee of such positions;

1 “(C) establishes a procedure for such an
2 employee to apply for such positions; and

3 “(D) establishes rates of pay, rules, and
4 working conditions.

5 “(2) IMMEDIATE REPLACEMENT SERVICE.—

6 “(A) NEGOTIATIONS.—If the replacement
7 of preexisting intercity rail passenger service oc-
8 curs concurrent with or within a reasonable
9 time before the commencement of the replacing
10 entity’s rail passenger service, the replacing en-
11 tity shall give written notice of its plan to re-
12 place existing rail passenger service to the au-
13 thorized collective bargaining agent or agents
14 for the potentially adversely affected employees
15 of the predecessor provider at least 90 days be-
16 fore the date on which it plans to commence
17 service. Within 5 days after the date of receipt
18 of such written notice, negotiations between the
19 replacing entity and the collective bargaining
20 agent or agents for the employees of the prede-
21 cessor provider shall commence for the purpose
22 of reaching agreement with respect to all mat-
23 ters set forth in subparagraphs (A) through (D)
24 of paragraph (1). The negotiations shall con-
25 tinue for 30 days or until an agreement is

1 reached, whichever is sooner. If at the end of
2 30 days the parties have not entered into an
3 agreement with respect to all such matters, the
4 unresolved issues shall be submitted for arbitra-
5 tion in accordance with the procedure set forth
6 in subparagraph (B).

7 “(B) ARBITRATION.—If an agreement has
8 not been entered into with respect to all mat-
9 ters set forth in subparagraphs (A) through (D)
10 of paragraph (1) as described in subparagraph
11 (A) of this paragraph, the parties shall select
12 an arbitrator. If the parties are unable to agree
13 upon the selection of such arbitrator within 5
14 days, either or both parties shall notify the Na-
15 tional Mediation Board, which shall provide a
16 list of seven arbitrators with experience in arbi-
17 trating rail labor protection disputes. Within 5
18 days after such notification, the parties shall al-
19 ternately strike names from the list until only
20 1 name remains, and that person shall serve as
21 the neutral arbitrator. Within 45 days after se-
22 lection of the arbitrator, the arbitrator shall
23 conduct a hearing on the dispute and shall
24 render a decision with respect to the unresolved
25 issues among the matters set forth in subpara-

1 graphs (A) through (D) of paragraph (1). This
2 decision shall be final, binding, and conclusive
3 upon the parties. The salary and expenses of
4 the arbitrator shall be borne equally by the par-
5 ties; all other expenses shall be paid by the
6 party incurring them.

7 “(3) SERVICE COMMENCEMENT.—A replacing
8 entity under this subsection shall commence service
9 only after an agreement is entered into with respect
10 to the matters set forth in subparagraphs (A)
11 through (D) of paragraph (1) or the decision of the
12 arbitrator has been rendered.

13 “(4) SUBSEQUENT REPLACEMENT OF SERV-
14 ICE.—If the replacement of existing rail passenger
15 service takes place within 3 years after the replacing
16 entity commences intercity passenger rail service,
17 the replacing entity and the collective bargaining
18 agent or agents for the adversely affected employees
19 of the predecessor provider shall enter into an agree-
20 ment with respect to the matters set forth in sub-
21 paragraphs (A) through (D) of paragraph (1). If the
22 parties have not entered into an agreement with re-
23 spect to all such matters within 60 days after the
24 date on which the replacing entity replaces the pred-
25 ecessor provider, the parties shall select an arbi-

1 trator using the procedures set forth in paragraph
 2 (2)(B), who shall, within 20 days after the com-
 3 mencement of the arbitration, conduct a hearing and
 4 decide all unresolved issues. This decision shall be
 5 final, binding, and conclusive upon the parties.

6 “(e) INAPPLICABILITY TO CERTAIN RAIL OPER-
 7 ATIONS.— Nothing in this section applies to—

8 “(1) commuter rail passenger transportation
 9 (as defined in section 24102(4) of this title) oper-
 10 ations of a State or local government authority (as
 11 those terms are defined in section 5302(11) and (6),
 12 respectively, of this title) eligible to receive financial
 13 assistance under section 5307 of this title, or to its
 14 contractor performing services in connection with
 15 commuter rail passenger operations (as so defined);

16 “(2) the Alaska Railroad or its contractors; or

17 “(3) the National Railroad Passenger Corpora-
 18 tion’s access rights to railroad rights of way and fa-
 19 cilities under current law.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) The table of chapters for the title is amend-
 22 ed by inserting the following after the item relating
 23 to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

1 “(2) The chapter analysis for subtitle V is
2 amended by inserting the following after the item re-
3 lating to chapter 243:

“244. Intercity passenger rail service capital assistance.....24401”.

4 **SEC. 302. STATE RAIL PLANS.**

5 (a) IN GENERAL.—Part B of subtitle V is amended
6 by adding at the end the following:

“CHAPTER 225. STATE RAIL PLANS AND HIGH PRIORITY
PROJECTS

“Sec.

“22501. Definitions

“22502. Authority

“22503. Purposes

“22504. Transparency; coordination; review

“22505. Content

“22506. Review

7 **“§ 22501. Definitions**

8 “In this subchapter:

9 “(1) PRIVATE BENEFIT.—

10 “(A) IN GENERAL.—The term ‘private
11 benefit’—

12 “(i) means a benefit accrued to a per-
13 son or private entity, other than the Na-
14 tional Railroad Passenger Corporation,
15 that directly improves the economic and
16 competitive condition of that person or en-
17 tity through improved assets, cost reduc-
18 tions, service improvements, or any other
19 means as defined by the Secretary; and

1 “(ii) shall be determined on a project-
2 by-project basis, based upon an agreement
3 between the parties.

4 “(B) CONSULTATION.—The Secretary may
5 seek the advice of the States and rail carriers
6 in further defining this term.

7 “(2) PUBLIC BENEFIT.—

8 “(A) IN GENERAL.—The term ‘public
9 benefit’—

10 “(i) means a benefit accrued to the
11 public in the form of enhanced mobility of
12 people or goods, environmental protection
13 or enhancement, congestion mitigation, en-
14 hanced trade and economic development,
15 improved air quality or land use, more effi-
16 cient energy use, enhanced public safety or
17 security, reduction of public expenditures
18 due to improved transportation efficiency
19 or infrastructure preservation, and any
20 other positive community effects as defined
21 by the Secretary; and

22 “(ii) shall be determined on a project-
23 by-project basis, based upon an agreement
24 between the parties.

1 “(B) CONSULTATION.—The Secretary may
2 seek the advice of the States and rail carriers
3 in further defining this term.

4 “(3) STATE.—The term ‘State’ means any of
5 the 50 States and the District of Columbia.

6 “(4) STATE RAIL TRANSPORTATION AUTHOR-
7 ITY.—The term ‘State rail transportation authority’
8 means the State agency or official responsible under
9 the direction of the Governor of the State or a State
10 law for preparation, maintenance, coordination, and
11 administration of the State rail plan.”.

12 **“§ 22502. Authority**

13 “(a) IN GENERAL.—Each State may prepare and
14 maintain a State rail plan in accordance with the provi-
15 sions of this subchapter.

16 “(b) REQUIREMENTS.—For the preparation and peri-
17 odic revision of a State rail plan, a State shall—

18 “(1) establish or designate a State rail trans-
19 portation authority to prepare, maintain, coordinate,
20 and administer the plan;

21 “(2) establish or designate a State rail plan ap-
22 proval authority to approve the plan;

23 “(3) submit the State’s approved plan to the
24 Secretary of Transportation for review; and

1 “(4) revise and resubmit a State-approved plan
2 no less frequently than once every 5 years for re-
3 approval by the Secretary.

4 **“§ 22503. Purposes**

5 “(a) PURPOSES.—The purposes of a State rail plan
6 are as follows:

7 “(1) To set forth State policy involving freight
8 and passenger rail transportation, including com-
9 muter rail operations, in the State.

10 “(2) To establish the period covered by the
11 State rail plan.

12 “(3) To present priorities and strategies to en-
13 hance rail service in the State that benefits the pub-
14 lic.

15 “(4) To serve as the basis for Federal and
16 State rail investments within the State.

17 “(b) COORDINATION.—A State rail plan shall be co-
18 ordinated with other State transportation planning goals
19 and programs and set forth rail transportation’s role with-
20 in the State transportation system.

21 **“§ 22504. Transparency; coordination; review**

22 “(a) PREPARATION.—A State shall provide adequate
23 and reasonable notice and opportunity for comment and
24 other input to the public, rail carriers, commuter and tran-
25 sit authorities operating in, or affected by rail operations

1 within the State, units of local government, and other in-
 2 terested parties in the preparation and review of its State
 3 rail plan.

4 “(b) INTERGOVERNMENTAL COORDINATION.—A
 5 State shall review the freight and passenger rail service
 6 activities and initiatives by regional planning agencies, re-
 7 gional transportation authorities, and municipalities with-
 8 in the State, or in the region in which the State is located,
 9 while preparing the plan, and shall include any rec-
 10 ommendations made by such agencies, authorities, and
 11 municipalities as deemed appropriate by the State.

12 **“§ 22505. Content**

13 “(a) IN GENERAL.—Each State rail plan shall con-
 14 tain the following:

15 “(1) An inventory of the existing overall rail
 16 transportation system and rail services and facilities
 17 within the State and an analysis of the role of rail
 18 transportation within the State’s surface transpor-
 19 tation system.

20 “(2) A review of all rail lines within the State,
 21 including proposed high speed rail corridors and sig-
 22 nificant rail line segments not currently in service.

23 “(3) A statement of the State’s passenger rail
 24 service objectives, including minimum service levels,
 25 for rail transportation routes in the State.

1 “(4) A general analysis of rail’s transportation,
2 economic, and environmental impacts in the State,
3 including congestion mitigation, trade and economic
4 development, air quality, land-use, energy-use, and
5 community impacts.

6 “(5) A long-range rail investment program for
7 current and future freight and passenger infrastruc-
8 ture in the State that meets the requirements of
9 subsection (b).

10 “(6) A statement of public financing issues for
11 rail projects and service in the State, including a list
12 of current and prospective public capital and oper-
13 ating funding resources, public subsidies, State tax-
14 ation, and other financial policies relating to rail in-
15 frastructure development.

16 “(7) An identification of rail infrastructure
17 issues within the State that reflects consultation
18 with all relevant stake holders.

19 “(8) A review of major passenger and freight
20 intermodal rail connections and facilities within the
21 State, including seaports, and prioritized options to
22 maximize service integration and efficiency between
23 rail and other modes of transportation within the
24 State.

1 “(9) A review of publicly funded projects within
2 the State to improve rail transportation safety and
3 security, including all major projects funded under
4 section 130 of title 23.

5 “(10) A performance evaluation of passenger
6 rail services operating in the State, including pos-
7 sible improvements in those services, and a descrip-
8 tion of strategies to achieve those improvements.

9 “(11) A compilation of studies and reports on
10 high-speed rail corridor development within the
11 State not included in a previous plan under this sub-
12 chapter, and a plan for funding any recommended
13 development of such corridors in the State.

14 “(12) A statement that the State is in compli-
15 ance with the requirements of section 22102.

16 “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-
17 GRAM.—

18 “(1) PROGRAM CONTENT.—A long-range rail
19 investment program included in a State rail plan
20 under subsection (a)(5) shall include the following
21 matters:

22 “(A) A list of any rail capital projects ex-
23 pected to be undertaken or supported in whole
24 or in part by the State.

1 “(B) A detailed funding plan for those
2 projects.

3 “(2) PROJECT LIST CONTENT.—The list of rail
4 capital projects shall contain—

5 “(A) a description of the anticipated public
6 and private benefits of each such project; and

7 “(B) a statement of the correlation
8 between—

9 “(i) public funding contributions for
10 the projects; and

11 “(ii) the public benefits.

12 “(3) CONSIDERATIONS FOR PROJECT LIST.—In
13 preparing the list of freight and intercity passenger
14 rail capital projects, a State rail transportation au-
15 thority should take into consideration the following
16 matters:

17 “(A) Contributions made by non-Federal
18 and non-State sources through user fees,
19 matching funds, or other private capital involve-
20 ment.

21 “(B) Rail capacity and congestion effects.

22 “(C) Effects on highway, aviation, and
23 maritime capacity, congestion, or safety.

24 “(D) Regional balance.

25 “(E) Environmental impact.

1 “(F) Economic and employment impacts.

2 “(G) Projected ridership and other service
3 measures for passenger rail projects.

4 **“§ 22506. Review**

5 The Secretary shall prescribe procedures for States
6 to submit State rail plans for review under this title, in-
7 cluding standardized format and data requirements. State
8 rail plans completed before the date of enactment of the
9 Passenger Rail Investment and Improvement Act of 2005
10 that substantially meet the requirements of this chapter,
11 as determined by the Secretary, shall be deemed by the
12 Secretary to have met the requirements of this chapter”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The table of chapters for the title is amend-
15 ed by inserting the following after the item relating
16 to chapter 223:

“225. State rail plans22501”.

17 “(2) The chapter analysis for subtitle V is
18 amended by inserting the following after the item re-
19 lating to chapter 223:

“225. State rail plans24401”.

20 **SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIP-**
21 **MENT POOL.**

22 (a) IN GENERAL.—Within 180 days after the date
23 of enactment of this Act, Amtrak shall establish a Next
24 Generation Corridor Equipment Pool Committee, com-

1 prised of representatives of Amtrak, the Federal Railroad
2 Administration, and interested States. The purpose of the
3 Committee shall be to design, develop specifications for,
4 and procure standardized next-generation corridor equip-
5 ment.

6 (b) FUNCTIONS.—The Committee may—

7 (1) determine the number of different types of
8 equipment required, taking into account variations
9 in operational needs and corridor infrastructure;

10 (2) establish a pool of equipment to be used on
11 corridor routes funded by participating States; and

12 (3) subject to agreements between Amtrak and
13 States, utilize services provided by Amtrak to design,
14 maintain and remanufacture equipment.

15 (c) COOPERATIVE AGREEMENTS.—Amtrak and
16 States participating in the Committee may enter into
17 agreements for the funding, procurement, remanufacture,
18 ownership and management of corridor equipment, includ-
19 ing equipment currently owned or leased by Amtrak and
20 next-generation corridor equipment acquired as a result
21 of the Committee's actions, and may establish a corpora-
22 tion, which may be owned or jointly-owned by Amtrak,
23 participating States or other entities, to perform these
24 functions.

1 (d) FUNDING.—In addition to the authorization pro-
2 vided in section 105 of this division, capital projects to
3 carry out the purposes of this section shall be eligible for
4 grants made pursuant to chapter 244 of title 49, United
5 States Code.

6 **SEC. 304. FEDERAL RAIL POLICY.**

7 Section 103 is amended—

8 (1) by inserting “IN GENERAL.—” before “The
9 Federal” in subsection (a);

10 (2) by striking the second and third sentences
11 of subsection (a);

12 (3) by inserting “ADMINISTRATOR.—” before
13 “The head” in subsection (b);

14 (4) by redesignating subsections (c), (d), and
15 (e) as subsections (d), (e), and (f), respectively and
16 by inserting after subsection (b) the following:

17 “(c) SAFETY.—To carry out all railroad safety laws
18 of the United States, the Administration is divided on a
19 geographical basis into at least 8 safety offices. The Sec-
20 retary of Transportation is responsible for all acts taken
21 under those laws and for ensuring that the laws are uni-
22 formly administered and enforced among the safety of-
23 fices.”;

24 (5) by inserting “POWERS AND DUTIES.—” be-
25 fore “The” in subsection (d), as redesignated;

1 (6) by striking “and” after the semicolon in
2 paragraph (1) of subsection (d), as redesignated;

3 (7) by redesignating paragraph (2) of sub-
4 section (d), as redesignated, as paragraph (3) and
5 inserting after paragraph (1) the following:

6 “(2) the duties and powers related to railroad
7 policy and development under subsection (e); and”;

8 (8) by inserting “TRANSFERS OF DUTY.—” be-
9 fore “A duty” in subsection (e), as redesignated;

10 (9) by inserting “CONTRACTS, GRANTS, LEASES,
11 COOPERATIVE AGREEMENTS, AND SIMILAR TRANS-
12 ACTIONS.—” before “Subject” in subsection (f), as
13 redesignated;

14 (10) by striking the last sentence in subsection
15 (f), as redesignated; and

16 (11) by adding at the end the following:

17 “(g) ADDITIONAL DUTIES OF THE ADMINIS-
18 TRATOR.—The Administrator shall—

19 “(1) provide assistance to States in developing
20 State rail plans prepared under chapter 225 and re-
21 view all State rail plans submitted under that sec-
22 tion;

23 “(2) develop a long range national rail plan
24 that is consistent with approved State rail plans and
25 the rail needs of the Nation, as determined by the

1 Secretary in order to promote an integrated, cohe-
2 sive, efficient, and optimized national rail system for
3 the movement of goods and people;

4 “(3) develop a preliminary national rail plan
5 within a year after the date of enactment of the Pas-
6 senger Rail Investment and Improvement Act of
7 2005;

8 “(4) develop and enhance partnerships with the
9 freight and passenger railroad industry, States, and
10 the public concerning rail development;

11 “(5) support rail intermodal development and
12 high-speed rail development, including high speed
13 rail planning;

14 “(6) ensure that programs and initiatives devel-
15 oped under this section benefit the public and work
16 toward achieving regional and national transpor-
17 tation goals; and

18 “(7) facilitate and coordinate efforts to assist
19 freight and passenger rail carriers, transit agencies
20 and authorities, municipalities, and States in pas-
21 senger-freight service integration on shared rights of
22 way by providing neutral assistance at the joint re-
23 quest of affected rail service providers and infra-
24 structure owners relating to operations and capacity
25 analysis, capital requirements, operating costs, and

1 other research and planning related to corridors
 2 shared by passenger or commuter rail service and
 3 freight rail operations.

4 “(h) PERFORMANCE GOALS AND REPORTS.—

5 “(1) PERFORMANCE GOALS.—In conjunction
 6 with the objectives established and activities under-
 7 taken under section 103(e) of this title, the Adminis-
 8 trator shall develop a schedule for achieving specific,
 9 measurable performance goals.

10 “(2) RESOURCE NEEDS.—The strategy and an-
 11 nual plans shall include estimates of the funds and
 12 staff resources needed to accomplish each goal and
 13 the additional duties required under section 103(e).

14 “(3) SUBMISSION WITH PRESIDENT’S BUDG-
 15 ET.—Beginning with fiscal year 2007 and each fis-
 16 cal year thereafter, the Secretary shall submit to
 17 Congress, at the same time as the President’s budg-
 18 et submission, the Administration’s performance
 19 goals and schedule developed under paragraph (1),
 20 including an assessment of the progress of the Ad-
 21 ministration toward achieving its performance
 22 goals.”.

23 **SEC. 305. RAIL COOPERATIVE RESEARCH PROGRAM.**

24 (a) ESTABLISHMENT AND CONTENT.—Chapter 249
 25 is amended by adding at the end the following:

1 **“§ 24910. Rail cooperative research program**

2 “(a) IN GENERAL.—The Secretary shall establish
3 and carry out a rail cooperative research program. The
4 program shall—

5 “(1) address, among other matters, intercity
6 rail passenger and freight rail services, including ex-
7 isting rail passenger and freight technologies and
8 speeds, incrementally enhanced rail systems and in-
9 frastructure, and new high-speed wheel-on-rail sys-
10 tems and rail security;

11 “(2) address ways to expand the transportation
12 of international trade traffic by rail, enhance the ef-
13 ficiency of intermodal interchange at ports and other
14 intermodal terminals, and increase capacity and
15 availability of rail service for seasonal freight needs;

16 “(3) consider research on the interconnected-
17 ness of commuter rail, passenger rail, freight rail,
18 and other rail networks; and

19 “(4) give consideration to regional concerns re-
20 garding rail passenger and freight transportation,
21 including meeting research needs common to des-
22 ignated high-speed corridors, long-distance rail serv-
23 ices, and regional intercity rail corridors, projects,
24 and entities.

25 “(b) CONTENT.—The program to be carried out
26 under this section shall include research designed—

1 “(1) to identify the unique aspects and at-
2 tributes of rail passenger and freight service;

3 “(2) to develop more accurate models for evalu-
4 ating the impact of rail passenger and freight serv-
5 ice, including the effects on highway and airport and
6 airway congestion, environmental quality, and energy
7 consumption;

8 “(3) to develop a better understanding of modal
9 choice as it affects rail passenger and freight trans-
10 portation, including development of better models to
11 predict utilization;

12 “(4) to recommend priorities for technology
13 demonstration and development;

14 “(5) to meet additional priorities as determined
15 by the advisory board established under subsection
16 (c), including any recommendations made by the Na-
17 tional Research Council;

18 “(6) to explore improvements in management,
19 financing, and institutional structures;

20 “(7) to address rail capacity constraints that
21 affect passenger and freight rail service through a
22 wide variety of options, ranging from operating im-
23 provements to dedicated new infrastructure, taking
24 into account the impact of such options on oper-
25 ations;

1 “(8) to improve maintenance, operations, cus-
2 tomer service, or other aspects of intercity rail pas-
3 senger and freight service;

4 “(9) to recommend objective methodologies for
5 determining intercity passenger rail routes and serv-
6 ices, including the establishment of new routes, the
7 elimination of existing routes, and the contraction or
8 expansion of services or frequencies over such
9 routes;

10 “(10) to review the impact of equipment and
11 operational safety standards on the further develop-
12 ment of high speed passenger rail operations con-
13 nected to or integrated with non-high speed freight
14 or passenger rail operations; and

15 “(11) to recommend any legislative or regu-
16 latory changes necessary to foster further develop-
17 ment and implementation of high speed passenger
18 rail operations while ensuring the safety of such op-
19 erations that are connected to or integrated with
20 non-high speed freight or passenger rail operations.

21 “(c) ADVISORY BOARD.—

22 “(1) ESTABLISHMENT.—In consultation with
23 the heads of appropriate Federal departments and
24 agencies, the Secretary shall establish an advisory
25 board to recommend research, technology, and tech-

1 nology transfer activities related to rail passenger
2 and freight transportation.

3 “(2) MEMBERSHIP.—The advisory board shall
4 include—

5 “(A) representatives of State transpor-
6 tation agencies;

7 “(B) transportation and environmental
8 economists, scientists, and engineers; and

9 “(C) representatives of Amtrak, the Alaska
10 Railroad, freight railroads, transit operating
11 agencies, intercity rail passenger agencies, rail-
12 way labor organizations, and environmental or-
13 ganizations.

14 “(d) NATIONAL ACADEMY OF SCIENCES.— The Sec-
15 retary may make grants to, and enter into cooperative
16 agreements with, the National Academy of Sciences to
17 carry out such activities relating to the research, tech-
18 nology, and technology transfer activities described in sub-
19 section (b) as the Secretary deems appropriate.”.

20 (b) CLERICAL AMENDMENT.—The chapter analysis
21 for chapter 249 is amended by adding at the end the fol-
22 lowing:

“24910. Rail cooperative research program”.

1 **TITLE IV—PASSENGER RAIL**
2 **SECURITY AND SAFETY**

3 **SEC. 401. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

4 (a) IN GENERAL—Subject to subsection (c) the Sec-
5 retary of Homeland Security, in consultation with the Sec-
6 retary of Transportation, is authorized to make grants to
7 Amtrak—

8 (1) to secure major tunnel access points and en-
9 sure tunnel integrity in New York, Baltimore, and
10 Washington, DC;

11 (2) to secure Amtrak trains;

12 (3) to secure Amtrak stations;

13 (4) to obtain a watch list identification system
14 approved by the Secretary;

15 (5) to obtain train tracking and interoperable
16 communications systems that are coordinated to the
17 maximum extent possible;

18 (6) to hire additional police and security offi-
19 cers, including canine units;

20 (7) to expand emergency preparedness efforts;

21 and

22 (8) for employee security training.

23 (b) CONDITIONS.—The Secretary of Transportation
24 shall disburse funds to Amtrak provided under subsection
25 (a) for projects contained in a systemwide security plan

1 approved by the Secretary of Homeland Security. The
2 plan shall include appropriate measures to address secu-
3 rity awareness, emergency response, and passenger evacu-
4 ation training.

5 (c) **EQUITABLE GEOGRAPHIC ALLOCATION.**—The
6 Secretary shall ensure that, subject to meeting the highest
7 security needs on Amtrak’s entire system, stations and fa-
8 cilities located outside of the Northeast Corridor receive
9 an equitable share of the security funds authorized by this
10 section.

11 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
12 are authorized to be appropriated to the Secretary of
13 Homeland Security to carry out this section—

- 14 (1) \$63,500,000 for fiscal year 2006;
15 (2) \$30,000,000 for fiscal year 2007; and
16 (3) \$30,000,000 for fiscal year 2008.

17 Amounts appropriated pursuant to this subsection shall
18 remain available until expended.

19 **SEC. 402. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

20 (a) **LIFE-SAFETY NEEDS.**—The Secretary of Trans-
21 portation is authorized to make grants to Amtrak for the
22 purpose of making fire and life-safety improvements to
23 Amtrak tunnels on the Northeast Corridor in New York,
24 NY, Baltimore, MD, and Washington, DC.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of
3 Transportation for the purposes of carrying out subsection
4 (a) the following amounts:

5 (1) For the 6 New York tunnels to provide ven-
6 tilation, electrical, and fire safety technology up-
7 grades, emergency communication and lighting sys-
8 tems, and emergency access and egress for
9 passengers—

10 (A) \$190,000,000 for fiscal year 2006;

11 (B) \$190,000,000 for fiscal year 2007;

12 (C) \$190,000,000 for fiscal year 2008;

13 (2) For the Baltimore & Potomac tunnel and
14 the Union tunnel, together, to provide adequate
15 drainage, ventilation, communication, lighting, and
16 passenger egress upgrades—

17 (A) \$19,000,000 for fiscal year 2006;

18 (B) \$19,000,000 for fiscal year 2007;

19 (C) \$19,000,000 for fiscal year 2008;

20 (3) For the Washington, DC, Union Station
21 tunnels to improve ventilation, communication, light-
22 ing, and passenger egress upgrades—

23 (A) \$13,333,000 for fiscal year 2006;

24 (B) \$13,333,000 for fiscal year 2007;

25 (C) \$13,333,000 for fiscal year 2008;

1 (c) INFRASTRUCTURE UPGRADES.—There are au-
2 thORIZED to be appropriated to the Secretary of Transpor-
3 tation for fiscal year 2006 \$3,000,000 for the preliminary
4 design of options for a new tunnel on a different alignment
5 to augment the capacity of the existing Baltimore tunnels.

6 (d) AVAILABILITY OF APPROPRIATED FUNDS.—
7 Amounts made available pursuant to this section shall re-
8 main available until expended.

9 (e) PLANS REQUIRED.—The Secretary may not make
10 amounts available to Amtrak for obligation or expenditure
11 under subsection (a)—

12 (1) until Amtrak has submitted to the Sec-
13 retary, and the Secretary has approved, an engineer-
14 ing and financial plan for such projects; and

15 (2) unless, for each project funded pursuant to
16 this section, the Secretary has approved a project
17 management plan prepared by Amtrak addressing
18 appropriate project budget, construction schedule,
19 recipient staff organization, document control and
20 record keeping, change order procedure, quality con-
21 trol and assurance, periodic plan updates, and peri-
22 odic status reports.

23 (f) REVIEW OF PLANS.—The Secretary of Transpor-
24 tation shall complete the review of the plans required by
25 paragraphs (1) and (2) of subsection (e) and approve or

1 disapprove the plans within 45 days after the date on
2 which each such plan is submitted by Amtrak. If the Sec-
3 retary determines that a plan is incomplete or deficient,
4 the Secretary shall notify Amtrak of the incomplete items
5 or deficiencies and Amtrak shall, within 30 days after re-
6 ceiving the Secretary's notification, submit a modified
7 plan for the Secretary's review. Within 15 days after re-
8 ceiving additional information on items previously included
9 in the plan, and within 45 days after receiving items newly
10 included in a modified plan, the Secretary shall either ap-
11 prove the modified plan, or, if the Secretary finds the plan
12 is still incomplete or deficient, the Secretary shall identify
13 in writing to the Senate Committee on Commerce, Science,
14 and Transportation and the House of Representatives
15 Committee on Transportation and Infrastructure the por-
16 tions of the plan the Secretary finds incomplete or defi-
17 cient, approve all other portions of the plan, obligate the
18 funds associated with those other portions, and execute
19 an agreement with Amtrak within 15 days thereafter on
20 a process for resolving the remaining portions of the plan.

21 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-
22 NEL USERS.—The Secretary shall, taking into account the
23 need for the timely completion of all portions of the tunnel
24 projects described in subsection (a)—

1 (1) consider the extent to which rail carriers
2 other than Amtrak use or plan to use the tunnels;

3 (2) consider the feasibility of seeking a financial
4 contribution from those other rail carriers toward
5 the costs of the projects; and

6 (3) obtain financial contributions or commit-
7 ments from such other rail carriers at levels reflect-
8 ing the extent of their use or planned use of the tun-
9 nels, if feasible.

10 **SEC. 403. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**
11 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
12 **CIDENTS.**

13 (a) IN GENERAL.—Chapter 243 of title 49, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 24316. Plans to address needs of families of pas-**
17 **sengers involved in rail passenger acci-**
18 **dents**

19 “(a) SUBMISSION OF PLAN.—Not later than 6
20 months after the date of the enactment of the Passenger
21 Rail Investment and Improvement Act of 2005, Amtrak
22 shall submit to the Chairman of the National Transpor-
23 tation Safety Board and the Secretary of Transportation
24 a plan for addressing the needs of the families of pas-

1 sengers involved in any rail passenger accident involving
2 an Amtrak intercity train and resulting in a loss of life.

3 “(b) CONTENTS OF PLANS.—The plan to be sub-
4 mitted by Amtrak under subsection (a) shall include, at
5 a minimum, the following:

6 “(1) A process by which Amtrak will maintain
7 and provide to the National Transportation Safety
8 Board and the Secretary of Transportation, imme-
9 diately upon request, a list (which is based on the
10 best available information at the time of the request)
11 of the names of the passengers aboard the train
12 (whether or not such names have been verified), and
13 will periodically update the list. The plan shall in-
14 clude a procedure, with respect to unreserved trains
15 and passengers not holding reservations on other
16 trains, for Amtrak to use reasonable efforts to ascer-
17 tain the number and names of passengers aboard a
18 train involved in an accident.

19 “(2) A plan for creating and publicizing a reli-
20 able, toll-free telephone number within 4 hours after
21 such an accident occurs, and for providing staff, to
22 handle calls from the families of the passengers.

23 “(3) A process for notifying the families of the
24 passengers, before providing any public notice of the

1 names of the passengers, by suitably trained individ-
2 uals.

3 “(4) A process for providing the notice de-
4 scribed in paragraph (2) to the family of a pas-
5 senger as soon as Amtrak has verified that the pas-
6 senger was aboard the train (whether or not the
7 names of all of the passengers have been verified).

8 “(5) A process by which the family of each pas-
9 senger will be consulted about the disposition of all
10 remains and personal effects of the passenger within
11 Amtrak’s control; that any possession of the pas-
12 senger within Amtrak’s control will be returned to
13 the family unless the possession is needed for the ac-
14 cident investigation or any criminal investigation;
15 and that any unclaimed possession of a passenger
16 within Amtrak’s control will be retained by the rail
17 passenger carrier for at least 18 months.

18 “(6) A process by which the treatment of the
19 families of nonrevenue passengers will be the same
20 as the treatment of the families of revenue pas-
21 sengers.

22 “(7) An assurance that Amtrak will provide
23 adequate training to its employees and agents to
24 meet the needs of survivors and family members fol-
25 lowing an accident.

1 “(c) USE OF INFORMATION.—The National Trans-
2 portation Safety Board, the Secretary of Transportation,
3 and Amtrak may not release to any person information
4 on a list obtained under subsection (b)(1) but may provide
5 information on the list about a passenger to the family
6 of the passenger to the extent that the Board or Amtrak
7 considers appropriate.

8 “(d) LIMITATION ON LIABILITY.—Amtrak shall not
9 be liable for damages in any action brought in a Federal
10 or State court arising out of the performance of Amtrak
11 in preparing or providing a passenger list, or in providing
12 information concerning a train reservation, pursuant to a
13 plan submitted by Amtrak under subsection (b), unless
14 such liability was caused by Amtrak’s conduct.

15 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
16 Nothing in this section may be construed as limiting the
17 actions that Amtrak may take, or the obligations that Am-
18 trak may have, in providing assistance to the families of
19 passengers involved in a rail passenger accident.

20 “(f) FUNDING.—There are authorized to be appro-
21 priated to the Secretary of Transportation for the use of
22 Amtrak \$500,000 for fiscal year 2006 to carry out this
23 section. Amounts made available pursuant to this sub-
24 section shall remain available until expended.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 243 of title 49, United States Code, is
3 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
dents.”.

4 **SEC. 404. NORTHERN BORDER RAIL PASSENGER REPORT.**

5 Within 180 days after the date of enactment of this
6 Act, the Secretary of Transportation, in consultation with
7 the Secretary of Homeland Security, the Assistant Sec-
8 retary of Homeland Security (Transportation Security Ad-
9 ministration), heads of other appropriate Federal depart-
10 ments, and agencies and the National Railroad Passenger
11 Corporation, shall transmit a report to the Senate Com-
12 mittee on Commerce, Science, and Transportation and the
13 House of Representatives Committee on Transportation
14 and Infrastructure that contains—

15 (1) a description of the current system for
16 screening passengers and baggage on passenger rail
17 service between the United States and Canada;

18 (2) an assessment of the current program to
19 provide preclearance of airline passengers between
20 the United States and Canada as outlined in “The
21 Agreement on Air Transport Preclearance between
22 the Government of Canada and the Government of
23 the United States of America”, dated January 18,
24 2001;

1 (3) an assessment of the current program to
2 provide preclearance of freight railroad traffic be-
3 tween the United States and Canada as outlined in
4 the “Declaration of Principle for the Improved Secu-
5 rity of Rail Shipments by Canadian National Rail-
6 way and Canadian Pacific Railway from Canada to
7 the United States”, dated April 2, 2003;

8 (4) information on progress by the Department
9 of Homeland Security and other Federal agencies to-
10 wards finalizing a bilateral protocol with Canada
11 that would provide for preclearance of passengers on
12 trains operating between the United States and Can-
13 ada;

14 (5) a description of legislative, regulatory,
15 budgetary, or policy barriers within the United
16 States Government to providing pre-screened pas-
17 senger lists for rail passengers traveling between the
18 United States and Canada to the Department of
19 Homeland Security;

20 (6) a description of the position of the Govern-
21 ment of Canada and relevant Canadian agencies
22 with respect to preclearance of such passengers;

23 (7) a draft of any changes in existing Federal
24 law necessary to provide for pre-screening of such

1 passengers and providing pre-screened passenger
2 lists to the Department of Homeland Security; and

3 (8) an analysis of the feasibility of reinstating
4 United States Customs and Border Patrol rolling in-
5 spections onboard international Amtrak trains.

6 **SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

7 (a) REQUIREMENT FOR STUDY AND REPORT.—The
8 Secretary of Homeland Security, in cooperation with the
9 Secretary of Transportation through the Assistant Sec-
10 retary of Homeland Security (Transportation Security Ad-
11 ministration) and other appropriate agencies, shall—

12 (1) study the cost and feasibility of requiring
13 security screening for passengers, baggage, and
14 cargo on passenger trains including an analysis of
15 any passenger train screening pilot programs under-
16 taken by the Department of Homeland Security; and

17 (2) report the results of the study, together
18 with any recommendations that the Secretary of
19 Homeland Security may have for implementing a
20 rail security screening program to the Senate Com-
21 mittee on Commerce, Science, and Transportation
22 and the House of Representatives Committee on
23 Transportation and Infrastructure within 1 year
24 after the date of enactment of this Act.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of
3 Homeland Security \$1,000,000 for fiscal year 2006 to
4 carry out this section.

Passed the Senate November 3, 2005.

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

S. 1932

AN ACT

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