At the request of Mr. Lautenberg, the name of the Senator from Hawaii (Mr. Akaka) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

At the request of Ms. Snowe, the names of the Senator from North Carolina (Mrs. Dole) and the Senator from Ohio (Mr. Voinovich) were added as cosponsors of S. 984, a bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

At the request of Mr. Feingold, the name of the Senator from New Jersey (Mr. Corzine), the Senator from Hawaii (Mr. Inouye), the Senator from Vermont (Mr. Leahy) and the Senator from Wisconsin (Mr. Kohl) were added as cosponsors of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

At the request of Mr. Obama, the name of the Senator from Missouri (Mr. Bond) was added as a cosponsor of amendment No. 670 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mrs. Clinton, the name of the Senator from Oklahoma (Mr. Inhofe) was added as a cosponsor of amendment No. 681 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mr. Voinovich, the name of the Senator from Ohio (Mr. DeWine) was added as a cosponsor of amendment No. 681 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mr. Santorum, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of amendment No. 708 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mr. Dodd, the names of the Senator from New Jersey (Mr. Lautenberg) and the Senator from Virginia (Mr. Warner) were added as cosponsors of amendment No. 732 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mr. Alexander, the names of the Senator from Virginia (Mr. Warner), the Senator from Alaska (Mr. Stevens) and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of amendment No. 733 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

At the request of Mr. Feingold, the name of the Senator from New Jersey (Mr. Corzine), the Senator from Hawaii (Mr. Inouye), the Senator from Vermont (Mr. Leahy) and the Senator from Wisconsin (Mr. Kohl) were added as cosponsors of amendment No. 733 in the Senate.

The National Historic Country Store Preservation Act of 2005 is designed to build upon the momentum that country store preservation work has generated in Vermont and to gather useful models and information to develop a program that supports historic, rural country stores nationwide.

Many stores also double as local post offices or outdoor camping and home hardware goods suppliers. It is not unusual, and highly recommended, that customers buy a fresh whole wedge of cheddar cheese from a 38-pound wheel next to the cash register.

Fathers can buy earthworms and tackle and take their daughters to the nearby fishing hole for an afternoon excursion. The National Historic Country Store Preservation Act of 2005 was introduced by Senator Jeffords of Vermont and Senator Specter of Pennsylvania.

I was able to find two pawn shops in the area. The first, called the National Historic Country Store Preservation Act of 2005 was designed to build upon the momentum that country store preservation work has generated in Vermont and to gather useful models and information to develop a program that supports historic, rural country stores nationwide.

My legislation authorizes the U.S. Economic Development Administration to make grants to national, State
The bill establishes a revolving loan fund. The fund will be used for research and restoration work. It will be used to improve our understanding of existing needs and provide the assistance required to address them.

This bill seeks to sustain America’s rural heritage by uniting small business development and historic preservation. I encourage my colleagues to join me in my efforts to protect our Nation’s historic country stores and revitalize our rural communities.

I ask that a summary of the legislation be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 2. FINDINGS.

The term ‘country store’ means a country store that—

(a) is situated—

(1) in the United States; and

(2) is located in a nonmetropolitan area, as determined by the Secretary; or

(b) is a business that—

(i) sells or sold grocery items and other typical products; and

(ii) retains sufficient integrity of design, materials, and construction to clearly identify the structure as a country store.

(c) national or State nonprofit organization that—

(1) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(2) acts as a cooperative to promote and enhance country stores; and

(d) State historic preservation office.

(3) Fund—The term ‘Fund’ means the Historic Country Store Revolving Loan Fund established by section 5(a).

(4) HISTORIC COUNTRY STORE.—The term ‘historic country store’ means a country store that—

(A) has operated at the same location for at least 50 years; and

(B) retains sufficient integrity of design, materials, and construction to clearly identify the structure as a country store.

(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce, acting through the Assistant Secretary for Economic Development.

SEC. 3. DEFINITIONS.

In this Act:

(A) COUNTRY STORE.—The term ‘country store’ means a structure independently owned and formerly or currently operated as a business that—

(i) sold grocery items and other typical products; and

(ii) is located in a nonmetropolitan area, as defined by the Secretary.

(B) INCLUSION.—The term ‘country store’ includes a cooperative.

(C) ELIGIBLE APPLICANT.—The term ‘eligible applicant’ means—

(A) a Department of commerce or economic development;

(B) a national or State nonprofit organization that—

(i) described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, or preservation of historic country stores;

(D) best practices to—

(i) improve the profitability of historic country stores; and

(ii) protect historic country stores from foreclosure or seizure; and

(E) to sponsor and conduct research on—

(A) the economic impact of historic country stores; and

(B) best practices for cooperation among proprietors of historic country stores; and

(C) promote the long-term economic viability of historic country stores.

SEC. 4. HISTORIC COUNTRY STORE PRESERVATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a historic country store preservation program—

(1) to collect and disseminate information on historic country stores;

(2) to promote State and regional partnerships among proprietors of historic country stores; and

(3) to sponsor and conduct research on—

(A) the economic impact of historic country stores; and

(B) best practices to—

(i) improve the profitability of historic country stores; and

(ii) protect historic country stores from foreclosure or seizure; and

(C) best practices for developing cooperative organizations that address the economic and historic preservation needs of historic country stores.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible entity for a project—

(A) to rehabilitate or repair a historic country store;

(B) to identify, document, and conduct research on historic country stores; and

(C) to develop and evaluate appropriate techniques or best practices for protecting historic country stores.

(c) REQUIREMENTS.—An eligible applicant that receives a grant for an eligible project under paragraph (1) shall comply with all applicable requirements for historic preservation projects under Federal, State, and local law.

(d) COUNTRY STORE ALLIANCE PILOT PROJECT.—The Secretary shall carry out a pilot project in the State of Vermont under which the Secretary shall conduct demonstration activities to preserve historic country stores, including—

(1) the collection and dissemination of information on historic country stores in the State; and

(2) the development of collaborative country store marketing and purchasing techniques; and

(3) the development of best practices for historic country store proprietors and communities facing transitions involved in the sale or closure of a historic country store.

SEC. 5. HISTORIC COUNTRY STORE REVOLVING LOAN FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘Historic Country Store Revolving Loan Fund’, consisting of—

(1) such amounts as are appropriated to the Fund under subsection (b); and

(2) ½ of the amounts appropriated under section 7(a); and

(3) any interest earned on investment of amounts in the Fund under subsection (d).

(b) TRANSFERS FROM FUND.—There are appropriated to the Fund amounts equivalent to—

(1) the amounts repaid on loans under section 6; and

(2) the amounts of the proceeds from the sales of notes, bonds, obligations, liens, mortgages and parcels delivered or assigned to the Secretary pursuant to loans made under section 6.

(c) EXPENDITURE OF FUND.—In the event the Secretary determines that such amounts are necessary to provide loans under section 6.

(d) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amount in the Fund shall be transferred to the Fund each fiscal year to pay the administrative expenses necessary to carry out this Act.

(e) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(f) INTEREST-BEARING OBLIGATIONS.—In any event the amounts required to be transferred to the Fund under this section shall be transferred to the Fund on the basis of estimates made by the Secretary of the Treasury.

(g) APPLICABLE LAWS.—The amounts required to be transferred to the Fund under this section shall be transferred to the Fund on the basis of estimates made by the Secretary of the Treasury.

(h) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 6. LOANS FOR HISTORIC COUNTRY STORE REHABILITATION OR REPAIR PROJECTS.

(a) IN GENERAL.—Using amounts in the Historic Country Store Revolving Loan Fund, the Secretary may make loans to historic country store proprietors and eligible applicants for projects to purchase, rehabilitate, or repair historic country stores.

(B) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a loan under this section, a country store proprietor or eligible applicant shall submit to the Secretary an application for a loan.

(2) CONSIDERATIONS FOR APPROVAL OR DISAPPROVAL.—In determining whether to approve or disapprove an application for a loan submitted under paragraph (1), the Secretary shall consider—

(A) the need for the purchase, rehabilitation, or repair of the historic store based on the condition of the historic country store;
The Patients’ Bill of Rights can stop abuses. For millions of Americans who rely on health insurance to protect them when serious illness strikes, the Patients’ Bill of Rights is literally a matter of life and death.

It’s important to remember what this debate is really about. It’s not about lawyers. It’s not about insurance companies. It’s about patients—mothers and daughters, fathers and sons, sisters and brothers. It’s about families around the country who will someday face the challenge of serious illness and disasters—people who want for themselves and our loved ones. But too many families are denied the care they need and deserve because of abuses by HMOs and other insurance companies.

The legislation we are introducing today will end those abuses. Several of its provisions are especially important—specialty care, clinical trials, and prescription drugs.

In each of these areas, care is too often delayed or denied by insurance companies more interested in profits than patients. Access to specialty care for serious and complex illnesses is a critical element of good health care. Yet denial of needed specialists is one of the most common abuses in the current system.

Patients with cancer and other serious illnesses need specialty care. Often, their best hope for a cure or for precious extra days of life is participation in a clinical trial. But too often, both are lacking. Patients with cancer or other serious illnesses and their physicians must fight HMOs to take advantage of this opportunity.

Traditionally, insurance companies have paid for the routine costs of doctors and hospitals in clinical trials. But HMOs frequently refuse to do so, with devastating effects on patients and research alike. Our legislation will end this.

Another abuse that will be ended by our plan is the denial of medically necessary drugs not on an HMO’s list. Equally important, our bill guarantees that these drugs will be provided at a cost no greater than the normal cost-sharing for other medications. Access to needed drugs is a concern for every family, particularly when new cures, increasingly based on new drugs today.

The list of abuses goes on and on. People across the country know these abuses are wrong. Managed care practices that cause these tragedies cost lives, and ending these abuses is a matter of simple justice and common decency.

The Patients’ Bill of Rights will protect families from insurance company bureaucracies that rob them of their peace of mind, their health, or even their lives. The bill is a guarantee that medical decisions will be made by doctors and patients, not managed care accountants. It is actively supported by doctors, nurses, patients, small businesses, religious organizations, and working families. The support is impressive in its breadth, its depth and its diversity.

It is time to guarantee these basic rights for patients. It is time for Congress to pass this bill. Every doctor knows it. Every nurse knows it. Every patient knows it. And every Senator knows it too.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1012
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. (a) Short Title.—This Act may be cited as the “Patients’ Bill of Rights Act of 2005”.

(b) Table of Contents.—The table of contents of this Act is as follows:

TITLES I—IMPROVING MANAGED CARE
SUBTITLE A—UTILIZATION REVIEW; CLAIMS; AND INTERNAL AND EXTERNAL APPEALS
Sec. 1. Short title; table of contents.
Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health Care Consumer Assistance Fund.

SUBTITLE B—ACCESS TO CARE
Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.
TITLE I—IMPROVING MANAGED CARE
Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.
(a) Compliance With Requirements.—
(1) In general. [same course of treatment.]
(2) Use of written criteria. Nothing in this subsection shall be construed as preventing a group health plan or health insurance issuer from using review activities in connection with the health care services furnished to an individual to perform utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(b) Utilization Review Defined.—For purposes of this section, the terms ‘utilization review’ and ‘utilization review activities’ mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services furnished to an individual and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(c) Written Policies. A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION.

(a) Procedures of Initial Claims for Benefits.—

(1) In general.—[similar to the previous paragraph but with different wording and context.]

(TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT)

SEC. 201. Application to group health plans and group health insurance coverage.

SEC. 202. Application to individual health insurance coverage.

SEC. 203. Cooperation between Federal and State authorities.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. Application of patient protection standards to Federal health insurance programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. Application of patient protection standards to Federal health insurance programs.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986


SEC. 502. Conforming enforcement for women’s health and cancer rights.

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. Credit for health insurance expenses of small businesses.

SEC. 512. Certain grants by private foundations to qualified health benefit purchasing coalitions.

SEC. 513. State grant program for market innovation.

SEC. 514. Grant program to facilitate health benefits information for small employers.

SEC. 515. State grant program for market innovation.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. Effective dates.

SEC. 602. Coordination in implementation.

SEC. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. No impact on Social Security Trust Fund.
(3) Oral requests.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request an oral determination. A participant, beneficiary, or enrollee (or authorized representative) may request an oral determination at any time during the process for making a determination and in no case later than 72 hours after the date of receipt of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) Timeline for making determinations.——
(1) Prior authorization determination.—
(A) In general.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim; or, if earlier, 60 days after the date of receipt of the claim for benefits.

(B) Expedited determination.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the date on which the request is received by the plan or issuer under this subparagraph.

(C) Ongoing care.—(i) Claim for benefits.—(I) In general.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual, or the individual’s designee or the individual’s health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) Notice of intent to discontinue.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved items of health care not exceeding the amount of items of health care noted as covered by the written statement, and the review date of the next appeal. If any, as well as a statement of the individual’s rights to further appeal.

(ii) Limit of construction.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) Retrospective determination.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(3) Failure to act.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under section 102 is a denial of a claim for benefits for purposes of this subtitle as of the date of the applicable deadline.

(4) Plan waiver of internal review.—A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) may request that such appeal be made by telephone or in writing. A participant, beneficiary, or enrollee (or authorized representative) may provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making of such request at the time of request.

(b) Timelines for making determinations.—
(1) Oral requests.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits under section 102 in which to appeal such denial under this section as of the date of the applicable deadline.

(2) Access to information.—(A) Timely provision of necessary information.—With respect to an appeal of a denial of a claim for benefits under this subtitle, a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional certify, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee and the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the request is received by the plan or issuer under this subparagraph.

(C) Ongoing care.—(i) Claim for benefits.—(I) In general.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual, or the individual’s designee or the individual’s health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) Notice of intent to discontinue.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved items of health care not exceeding the amount of items of health care noted as covered by the written statement, and the review date of the next appeal. If any, as well as a statement of the individual’s rights to further appeal.

(ii) Limit of construction.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) Retrospective determination.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.
is based on a lack of medical necessity and appeal of a denial of a claim for benefits that
in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that the plan or issuer is necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a determination cannot be made in a timely manner calculated to be understood by the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(1) ORAL PERMSTENTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided under subsection (b)(2), if the request for such review is made orally, a group health plan, or health insurance issuer offering health insurance coverage, may require the participant, beneficiary, or enrollee to provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request, such a written confirmation of such request may be made orally. The plan or issuer may not refuse to treat such a request as a written request of the type specified in subparagraph (A)(v) because the request is made orally.

(2) FEES NOT REQUIRED.—If the filing fee paid shall not be required under subparagraph (A)(iv) where there is a certification in a form and manner specified in guidelines established by the Secretary, that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(3) REVEALEMENT OF FEE.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification in a form and manner specified in guidelines established by the Secretary, that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(4) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse the denial which is the subject of the review.

IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPTON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer’s initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

HEALTH CARE PROFESSIONALS.—With respect to an independent external review conducted
under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide notice of the denial of a claim for benefits, the entity shall determine such information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided no later than 5 days from the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such extended time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITY.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (i) or (ii) of subsection (b)(2)(A) have not been met; or

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under paragraph (1) relating to a denial of a claim for benefits.

(B) ADDITIONAL REVIEWABLE DECISIONS.—

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee (including the medical condition of the participant, beneficiary, or enrollee (including the medical condition of the participant, beneficiary, or enrollee (or an authorized representative) filing the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d)); and

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage);

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFEANCE PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), the entity shall refer to the determination made by the plan or issuer of the recommendation of the treating health care professional (if any).

(ii) DISCREPANCY PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a determination with respect to a request referred to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is subject to independent medical review. Such notice—

(1) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee; and

(2) shall include the reasons for the determination.

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further review processes to which the participant, beneficiary, or enrollee (or authorized representative) has access.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the plan or issuer offering health insurance coverage, and that is disclosed under section 121(b)(1)(C). In making a determination as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services for which benefits are specifically excluded or expressly limited under the plan or issuer’s policy or language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of benefits that is referenced at part (1) of subsection (c) is subject to the time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined in (the plan language of the plan or coverage documents) under the plan or coverage offered by a group health plan offered by a group health plan offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that are required. Provided the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(3) SCREENING OF REQUESTS By QUALIFIED EXTERNAL REVIEW ENTITY.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (i) or (ii) of subsection (b)(2)(A) have not been met; or

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under paragraph (1) relating to a denial of a claim for benefits.

(B) ADDITIONAL REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent medical determination with respect to whether or not the denial of a claim for benefits should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer’s determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee; or the recommendation of the treating health care professional and the evidence, including peer-reviewed medical literature or findings and including expert opinion).

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or issuer’s policy or language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of benefits that is referenced at part (1) of subsection (c) is subject to the time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plan language of the plan or coverage documents) under the plan or coverage offered by a group health plan offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that are required. Provided the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(4) INDEPENDENT MEDICAL REVIEW.—

(A) IN GENERAL.—If a qualified external review entity makes a determination as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage under this section, the participant, beneficiary, or enrollee (or an authorized representative) may request a review of such determination. Such request shall be made in writing no later than 30 days from the date of receipt of the determination.

(B) Standard for Determination.—The independent medical reviewer’s determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on—

(i) the clinical or scientific evidence used in making the determination; and

(ii) considerations, information, including the following:

(I) the determination made by the plan or issuer with respect to the claim upon initial review and the evidence, guidelines, or rationales used by the plan or issuer in reaching such determination.

(II) the recommendation of the treating health care professional and the evidence, guidelines, and rationales used by the treating health care professional in reaching such recommendation.

(iii) any additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(C) INDEPENDENT DETERMINATION.—

(i) The plan or coverage document. and the evidence, guidelines, and rationales used by the treating health care professional shall be understood by a participant or enrollee; and

(ii) the recommendation of the treating health care professional shall be understood by a participant or enrollee.

(D) INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer under this section shall also consider any additional information obtained in the process of making the independent medical determination under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determination made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of “medically necessary and appropriate”, “experimental or investigational”, or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(E) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer under this section shall, in accordance with the deadlines described in subsection (b)(2)(A), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons for the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer may comply with such determination.

(F) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer shall, in accordance with the deadlines described in subsection (b)(2)(A), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons for the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer may comply with such determination.

(G) TIMELINES AND NOTIFICATIONS.—

(i) TIMELINES FOR INDEPENDENT MEDICAL REVIEWER.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination as to a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical
binding upon the plan or issuer involved.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i) if such request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee and the treating health care professional, if any) receives a copy of the written determination under paragraph (1) with respect to a participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) as preventing an entity or reviewer from performing a determination in a manner consistent with the determination of the independent medical reviewer.

(iii) ONGOING CARE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination, as described in paragraph (1)(B)(iii), within 30 days after the date of receipt of the request for external review if the external review entity receives the request for external review entity.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination, as described in paragraph (1)(B)(ii), within 30 days after the date of receipt of the request for external review if the external review entity receives the request for external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee receives a written notification of the determination of the independent medical reviewer in accordance with paragraphs (1)(B)(i) and (ii) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer in accordance with paragraphs (1)(B)(i) and (ii) and the external review entity.

(3) NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by the participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—The determinations of an external review entity and an independent medical reviewer under this section shall be final and binding upon the plan or issuer involved.

(2) COMPLIANCE WITH DETERMINATION.—The independent medical reviewer (or reviewers) shall ensure that the plan or issuer involved, upon the receipt of such request for external review is received by the qualified external review entity.

(3) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee for the costs of such items or services.

(iii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (ii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i) if such request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee and the treating health care professional, if any) receives a copy of the written determination under paragraph (1) with respect to a participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) as preventing an entity or reviewer from performing a determination in a manner consistent with the determination of the independent medical reviewer.

(c) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney’s fees) incurred in recovering such reimbursement.

(d) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—(A) MONETARY PENALTIES.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(b) CHARGE AND DESIST ORDER AND ORDER OF ATTORNEY’S FEE.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan or by a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action described in subparagraph (A) and in which the plaintiff prevails, the court shall award the plaintiff a reasonable attorney’s fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(c) ADDITIONAL CIVIL PENALTIES.—(1) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(i) any pattern or practice of repeated refusal to authorize a benefit determined by an external review entity to be covered; or

(ii) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(A) the amount of the benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section; or

(B) $500,000.

(d) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing the benefits who has engaged in any such pattern or practice described in subparagraph (A)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed, from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In the case of a group health plan or health insurance issuer, the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3); and

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (2) and (3); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(ii) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment described in paragraph (c).

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case described in paragraph (c)—

(i) shall not be a related party (as defined in paragraph (d)); and

(ii) shall cause to be served on the defendant an order requiring the defendant—

(I) to cease and desist from the alleged action or failure to act; and

(II) to pay to the plaintiff a reasonable attorney’s fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.
(ii) not have a material familial, financial, or professional relationship with such a party; and
(iii) does not otherwise have a conflict of interest with such a party (as determined under subsection (g)(7));

The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) In general.—Subject to clause (ii), an entity shall meet the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(ii) does not have a material familial, financial, or professional relationship with such a party; and

(iii) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(C) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(D) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) In general.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give due consideration to a process that is approved by the appropriate Secretary for the conduct of external review activities under this section if the process—

(ii) meets (and has met, in the case of recertification) appropriate indicators of fiscal integrity; and
(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(q) QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(r) CONSIDERATIONS IN RECERTIFICATIONS.—In considerations of a qualified private standard-setting organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers) to.

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirements of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement that independent medical reviewers may not require coverage for specifically excluded benefits.

(VI) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(S) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(T) PETITION FOR DENIAL OR WITHDRAWAL.—A qualified external review entity may petition the appropriate Secretary, or an organization providing the certification involves, for a denial of certification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(U) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held responsible for unfair or malicious acts or omissions in the performance of such duty, function, or activity.

(V) REPORT.—Not later than 12 months after the effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE PROGRAMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ‘‘Secretary’’) shall establish a program, to be known as the ‘‘Health Care Consumer Assistance Fund’’, to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) shall provide assistance and access to health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness, and not supplant any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(E) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office;

(F) the manner in which the State will ensure that consumers have direct access to assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals residing in the State during the calendar year who were covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered during such calendar year by the health care consumer assistance office (established under paragraph (4)). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and allocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for any fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this subsection.

(D) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience and expertise in the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(2) TO BE ELIGIBLE TO ENTER INTO A CONTRACT UNDER SUBPARAGRAPH (A), AN ENTITY SHALL DEMONSTRATE THAT IT HAS
the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, and enrollees of prospective or existing health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

3. What information shall the consumer assistance office provide? The health care consumer assistance office of a State shall provide consumer assistance services, including—

(a) the operation of a toll-free telephone hot line to respond to consumer requests;
(b) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care, the rights and responsibilities of health care consumers;
(c) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;
(d) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;
(e) referrals to appropriate private and public entities to resolve questions, problems, and grievances; and
(f) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative appeals or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurer.

4. Confidentiality and Access to Information.—

(a) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(b) EXISTING STATE ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee of such health care provider, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

5. Subcontracts.—The health care consumer assistance office of a State may carry out activities and provide services through the use of grant or contract non-profit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

6. Term.—A contract entered into under this subsection shall be for a term of 3 years.

7. Report.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

8. Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**Subtitle B—Access to Care**

**SEC. 111. CONSUMER CHOICE OPTION.**

(a) In general.—If a health insurance coverage offered by a health insurance issuer, provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers, then the issuer or plan shall offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment) or upon request during enrollment as provided under subsection (c) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries affirmatively elect such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) Additional costs.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is agreed that the plan sponsor or group health plan through agreement with the health insurance issuer.

(c) Open season.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

**SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.**

(a) Primary care.—If a group health plan, or health insurance coverage issued or offered by a health insurance issuer in the group market, offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, or enrollee to designate any participating primary care provider who is available to accept such individual.

(b) Specialists.—

(1) In general.—Subject to paragraph (2), a group health plan and a health insurance coverage issued or offered by a health insurance issuer in the group market, that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral by the participant, beneficiary, or enrollee of such a network participating health care professional who is available to accept such individual for such care and to receive such care.

**SEC. 113. ACCESS TO EMERGENCY CARE.**

(a) Coverage of emergency services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers, then the issuer or plan shall cover emergency services (as defined in paragraph (2)(B)) at least annually.

(2) Without the need for any prior authorization determination; and

(3) Construction.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

**SEC. 114. ACCESS TO EMERGENCY CARE.**

(a) Coverage of emergency services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers, then the issuer or plan shall cover emergency services (as defined in paragraph (2)(B)) without the need for any prior authorization determination.

(2) Whether the health care provider furnishing such services is a participating provider with respect to such services; and

(3) In a manner so that emergency services are provided to a participant, beneficiary, or enrollee—
SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) Timely Access.—(1) In General.—If a group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or health insurance coverage offered by the plan.

(ii) Nothing in paragraph (1) shall be construed to provide for coverage of such specialty care by a non-participating specialist.

(b) Treatment of Nonparticipating Providers.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(c) Authorization.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in advance of coverage for specialty care provided under this section. Such authorization shall be given unless the provider notifies the participant, beneficiary, or enrollee in a manner consistent with subsection (a)(1)(C).

(d) Specialist Defined.—For purposes of this section, the term "specialist" means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition of the participant, beneficiary, or enrollee.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) General Rights.—(1) Direct Access.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b), may not require authorization or referral from the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical and gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(b) Application of Section.—A group health plan, or health insurance coverage with respect to obstetrical and gynecological care offered by a health insurance issuer, must provide for the direct access to obstetrical and gynecological care, described in subsection (a)(1), without any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical and gynecological care.

(c) Ongoing Special Condition Defined.—A group health plan or a health insurance issuer, in negotiating the terms of a group health plan or health insurance contract, may require the payment of a different or additional amount as a condition of, and accessible to, a participant, beneficiary, or enrollee who seeks coverage for obstetrical and gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(d) Notwithstanding the foregoing, nothing in subsection (c) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical and gynecological care.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) Pediatric Care.—In the case of a participant, beneficiary, or enrollee who has a child enrolled under the plan, or health insurance coverage offered by the plan, the provider of health insurance coverage offered by the plan shall—

(1) permit the enrollment of the child; and

(2) require that the plan or issuer provide coverage for pediatric care, to the extent that the plan or issuer provides coverage for other children enrolled under the plan.
a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such a child to designate a health care provider (allopathic or osteopathic) who specializes in pediatrics as the child’s primary care provider if such provider participates in the network of providers of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage, the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract between a group health plan and a health insurance issuer offering health care coverage is terminated and, as a result, none of the terms of such coverage are continued with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply to such individual in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan prior to the date of contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify participants, beneficiaries, or enrollees of the rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section—

(1) CONTRACT.—The term “contract” includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of insurance contracts) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term “health care provider” or “provider” means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term “serious and complex condition” means—

(A) a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent injury or dysfunction; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 111(b)(2)(B)).

(4) TERMINATED.—The term “terminated” includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage pursuant to a formulary or a list of approved drugs, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage (as defined in section 1861(d)(3)(A) of the Social Security Act) at the time of such notice) that the use is investigational, if the use—

(A) in the case of a prescription drug—

(1) requires the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.
(i) is included in the labeling authorized by the application for effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application for effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under section (1) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply pursuant to such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan or health insurance issuer providing health insurance coverage offered in connection with such a plan to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2); or

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of in-network providers for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee’s participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(b), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term “qualified individual” means an individual who is a participant, beneficiary, or enrollee in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1) Disclosure of a life-threatening or serious illness for which no standard treatment is effective.

(2) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(3) The individual’s participation in the trial offers material potential for significant clinical benefit for the individual.

(2) EITHER—

(A) The referring physician is a participating physician, and has concluded that the individual’s participation in such trial would be appropriate based upon the individual meeting the conditions described in subsection (b).

(B) The participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual’s participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—In general—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(d) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(e) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term “approved clinical trial” means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant; and

(iii) either if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(3) USE OF IN-NETWORK PROVIDERS.—Nothing in this section shall be construed to limit a plan’s or issuer’s coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) IN GENERAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultation specialists in the applicable medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that full coverage is provided to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at the same additional cost to the enrollee beyond which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(b) PROHIBITION ON PENALTY OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection, or the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to condition the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) IN GENERAL.—(A) A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage that provides coverage with respect to medical and surgical services, shall provide information to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment or upon request of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis.

(B) In conjunction with the expiration period of the plan or coverage if the plan or coverage has such an expiration period; or

(ii) in the case of a plan or coverage that does not have an expiration period, in conjunction with the beginning of the plan or coverage year; and

(2) EXCLUSION.—Nothing in paragraph (1) shall be construed as requiring a plan or issuer to send information to participants, beneficiaries, or enrollees if

(1) the information is included in the labeling authorized by the application for effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under section (1) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply pursuant to such Act.

(2) CONSTRUCTION.—Nothing in this section shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.
of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists covered under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances under which participation in clinical trials is covered under the terms and conditions of the plan or coverage and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing requirements for obtaining off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the plan or issuer, if such section applies.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer’s rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising such rights) of participants, beneficiaries, and enrollees under title II in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally, and any telephone numbers and mailing addresses of the appropriate authority, and a description of any additional legal rights and remedies available under section 772(e) of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of any advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether any limitations on coverage or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speaking participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional information that is otherwise made available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Patients’ Bill of Rights Act of 2005 (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the description required under paragraphs (1) through (17), if such sections apply. The description required under this paragraph may be combined with the description required under paragraphs (1) through (17), if such sections apply.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(21) INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under the plan or issuer a copy of any document to be used in the process of obtaining care, the rules and procedures regarding the appropriateness of care, the provider qualifications or certifications of such professionals.

(22) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payment, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(23) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a disease management program under section 118.
SEC. 132. PROHIBITION OF DISCRIMINATION

Subsection (a) shall be null and void.

(4) A DDITIONAL CONSIDERATIONS .

It shall not be considered to violate section (a) shall be null and void.

(1) as requiring the coverage under a group health plan or health insurance coverage that is calculated to be understood by a par-

(ii) the recipient is capable of accessing the information so disclosed on the recipient’s individual workstation or at the recipient’s home.

(3) EXCEPTION AND SPECIAL RULE .

For purposes of this paragraph, a health care professional is considered to be acting in good

(i) the recipient has affirmatively con-
sented to disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient’s individual workstation or at the recipient’s home.

(b) NULLIFICATION .

Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) and void.

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS

(a) GENERAL RULE .

The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in re-

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSE, CERTIFICATION, SCOPE-OF-PRACTICE LAW, OR SCOPE-OF-PRACTICE LAW .

(a) GENERAL .

A group health plan, and a health insurance issuer offering health insurance coverage, shall not discriminate against a protected health care professional because the professional in good faith:

(1) as requiring the coverage under a group health plan or health insurance coverage of a participant or enrollee to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, bene-

(b) CONSTRUCTION .

Subsection (a) shall not be construed:

(i) the recipient has affirmatively con-

(ii) the recipient is capable of accessing the information so disclosed on the recipient’s individual workstation or at the recipient’s home.

(iii) the disclosure is in response to an in-

(a) GENERAL .

A group health plan, and a health insurance issuer offering health insurance coverage, shall not discriminate against a protected health care professional because the professional in good faith:

(1) as requiring the coverage under a group health plan or health insurance coverage of a participant or enrollee to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, benefi-

(2) a participant, beneficiary, enrollee, or health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know that is no less protective than the provisions of section 1822(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 133. PROTECTION FOR PATIENT ADVOCACY .

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS .

A group health plan, and a health insurance issuer issuing health care services or supplies furnished to a participant, benefi-

(iii) the disclosure is in response to an in-

(a) GENERAL .

A group health plan, and a health insurance issuer offering health insurance coverage, shall not discriminate against a protected health care professional because the professional in good faith:

(1) as requiring the coverage under a group health plan or health insurance coverage of a participant or enrollee to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, benefi-

ed participation in an investigation or proceeding that is calculated to be understood by a par-

ticipant, beneficiary, enrollee, or health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know that is no less protective than the provisions of section 1822(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, benefi-

(iii) the disclosure is in response to an in-

(a) GENERAL .

A group health plan, and a health insurance issuer offering health insurance coverage, shall not discriminate against a protected health care professional because the professional in good faith:

(1) as requiring the coverage under a group health plan or health insurance coverage of a participant or enrollee to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan’s or issuer’s participants, benefi-

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS .

(a) GENERAL RULE .

The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in re-

(b) CONSTRUCTION .

Subsection (a) shall not be construed:

(i) the recipient has affirmatively con-

(ii) the recipient is capable of accessing the information so disclosed on the recipient’s individual workstation or at the recipient’s home.

(b) CONSTRUCTION .

Nothing in this section shall be construed as prohibiting all capita-

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SEC. 151. DEFINITIONS.

(a) Incorporation of General Definitions. — Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XVII of such Act.

(b) Secretary. — Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services.

(c) Additional Definitions. — For purposes of this title:

(1) Applicable Authority. — The term “applicable authority” means:

(A) in the case of a group health plan, the Secretary of Health and Human Services; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(2) Group Health Plan. — The term “group health plan” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(3) Health Care Professional. — The term “health care professional” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(4) Health Care Provider. — The term “health care provider” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(5) Health Care Plan. — The term “health care plan” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(6) Health Insurance Coverage. — The term “health insurance coverage” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(7) Protected Health Care Professional. — The term “protected health care professional” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(8) Nonparticipating. — The term “nonparticipating” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(9) Prior Authorization. — The term “prior authorization” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(10) Substantially Compliant. — The term “substantially compliant” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(11) Substantially Compliant Requirement. — The term “substantially compliant requirement” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(12) State Law. — The term “State law” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(13) State Preemption Determination. — The term “state preemption determination” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(14) State Preemption Determination Notice. — The term “state preemption determination notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(15) State Preemption Notice. — The term “state preemption notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(16) State Approval Notice. — The term “state approval notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(17) State Approval Determination. — The term “state approval determination” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(18) State Approval Determination Notice. — The term “state approval determination notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(19) State Approval Notice. — The term “state approval notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(20) State Contractor. — The term “State contractor” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(21) State Certification. — The term “State certification” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(22) State Certification Notice. — The term “State certification notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(23) State Certification Determination. — The term “State certification determination” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(24) State Certification Determination Notice. — The term “State certification determination notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(25) State Certification Notice. — The term “State certification notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(26) State Preemption. — The term “State preemption” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(27) State Preemption Notice. — The term “State preemption notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(28) State Preemption Determination Notice. — The term “State preemption determination notice” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.

(29) State Preemption Determination. — The term “State preemption determination” means:

(A) in the case of a group health plan, the State insurance commissioner; and

(B) in the case of a health insurance issuer, the State insurance commissioner.
(a) In General.—The Secretary shall approve a certification under paragraph (1) unless—
(i) the State fails to provide sufficient information to make a determination under paragraph (2)(A); or
(ii) the Secretary determines that the State law involved does not provide for patient protections substantially equivalent to those provided under the terms and conditions of such plan or coverage.

(b) Exclusion From Access to Care Managed Care Provisions for Fee-for-service Coverage.—
(i) In General.—The provisions of sections 111 and 112 of this title shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in section 1314(b)(2)(A)).

(ii) Fee-for-service Coverage Defined.—For purposes of this paragraph, the term “fee-for-service coverage” means coverage under a group health plan or health insurance coverage that—
(A) reimburses providers, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;
(B) does not provide for reimbursement for such coverage on a basis more favorable to the provider than the terms and conditions of such plan or coverage; or
(C) does not operate to provide for the kinds of protections otherwise required to establish substantial compliance.

SEC. 153. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in such plan or such policy, certificate, or contract.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) General.—Excepted benefits subject to the protections of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (as added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as benefits described in section 733(c)(2)(B) of such Act. The Secretary shall not provide for the requirements of section 733(c)(2)(B) of such Act to apply to excepted benefits described in section 733(c)(2)(A) of such Act.

(b) Coverage of Certain Limited Scope Plans.—Only for purposes of applying the requirements of this title, section 2707 of the Public Health Service Act, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 111(c)(2)(A) of the Public Health Service Act.


(3) Section 113(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretary of Health and Human Services shall issue regulations to incorporate into, and make a part of, such plan or the policy, certificate, or contract providing such coverage the requirements of this title. Such regulations may also incorporate any interim final rules as the Secretary determines appropriate to carry out this title.

SEC. 156. COVERAGE OF NATIONAL BARGAINING AGREEMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in such plan or such policy, certificate, or contract.
TITLE IV
—
Healthcare and you. Title IV—Patient Protection and Affordable Care Act

SECTION 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) Sense of Congress.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) Conforming Federal Health Insurance Programs.—It is the sense of Congress that the President should require, by executive order or official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in the subsection with respect to such program.

(c) GAO Report on Additional Steps Required.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) Federal Health Insurance Program.—In this section, the term “Federal health insurance program” means a Federal program that provides health insurance coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SECTION 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end of the section the following new section:

“SEC. 714. PATIENT PROTECTION STANDARDS.

(a) In General.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients’ Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

(b) Plan Satisfactory of Certain Requirements.—

(1) SATISFACTION OF CERTAIN REQUIREMENTS.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients’ Bill of Rights Act of 2005 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer.

(A) Section 111 (relating to consumer choice option).

(B) Section 112 (relating to choice of health care professional).

(C) Section 113 (relating to access to emergency care).

(D) Section 114 (relating to timely access to specialists).

(E) Section 115 (relating to patient access to obstetrical and gynecological care).

(F) Section 116 (relating to access to pediatric care).

(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

(H) Section 118 (relating to access to needed prescription drugs).

(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

(J) Section 120 (relating to coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary care).

(K) Section 134 (relating to payment of claims).

(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Patients’ Bill of Rights Act of 2005, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available such information (and is not liable for the issuer’s failure to provide or make available) such information.

(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 105 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer’s failure to provide for such process and system), if the issuer is obligated to provide and make available (or to respond and makes available) such information.

(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeals, the Secretary may not be liable for the failure of the qualified external appeal entity to meet any requirements under such section.

(5) APPLICATION TO PROHIBITIONS.—Pursuant to the committee report, the section relating to health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following provisions of the Patients’ Bill of Rights Act of 2005, the group health plan shall not be liable for such violation.

(A) Section 102 (relating to prohibition of interference with certain medical communications).

(B) Section 103 (relating to prohibition of discrimination against providers based on licensure).

(C) Section 133 (relating to prohibition of discrimination against providers based on licensure).

(D) Section 135 (relating to protection for patient advocacy).

(E) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(F) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection, any reference in this subsection to a requirement in a section or other provision in the Patients’ Bill of Rights Act of 2005 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that is substantially similar to such subsection (as determined under section 152(c) of such Act) with the requirement in such section or other provision.

(g) Application to Certain Prohibitions Against Retaliation.—With respect to compliance with the requirements of section 135(b)(1) of the Patients’ Bill of Rights Act of 2005, for purposes of this subsection such term ‘‘group health plan’’ is deemed to include a reference to an institutional health care provider.

(h) Enforcement of Certain Requirements.—

(1) Complaints.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients’ Bill of Rights Act of 2005 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

(2) Investigation.—The Secretary shall investigate such complaint and determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional is not subjected to retaliation, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

(i) Conforming Amendments.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Patients’ Bill of Rights Act of 2005 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.

(j) Satisfaction of ERISA Claims Procedure Requirement.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a)” after “Sec. 503.”

The Secretary shall require, by executive order or official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the requirements described in the subsection with respect to such program.

(j) Conforming Amendments.—

(1) Section 723(a) of such Act (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “section 713”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

“714. Patient protection standards.”

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting “other than section 135(b) of the Patients’ Bill of Rights Act of 2005” after “the”.

(j) Availability of Civil Remedies.

(1) Availability of Federal Civil Remedies in Cases Not Involving Medically Necessary Services.

(A) In General.—Section 502 of the Employee Retirement Income Security Act of

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S5091
(4) DEFINITIONS AND RELATED RULES.—

(A) ORDINARY CARE.—The term ‘ordinary care’ means, with respect to a determination on a claim for benefits, that degree of care, skill, and prudence that a reasonably prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

(B) PERSONAL INJURY.—The term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

(C) CLAIM FOR BENEFITS; DENIAL.—The terms ‘claim for benefits’ and ‘denial of a claim for benefits’ have the meanings provided in section 102(c)(3) of the Patients’ Bill of Rights Act of 2005.

(D) TERMS AND CONDITIONS.—The term ‘terms and conditions’ includes, with respect to a claim for benefits under group health insurance coverage, requirements imposed under title I of the Patients’ Bill of Rights Act of 2005.

(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action is not barred by paragraph (1)(A) to the extent that a cause of action under State law applicable purposes have not been exhausted.

(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

(A) IN GENERAL.—No treating physician or other health care professional of the participant or beneficiary, and no person operating or maintaining the plan (or against an employee of such a plan or of the group health plan described in clause (ii) of paragraph (1)(B)).

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(I) HEALTH CARE PROFESSIONAL.—The term ‘health care professional’ means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating in the scope of such licensure, accreditation, or certification.

(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term ‘non-medically reviewable duty’ means a duty the discharge of which does not include the making of a medically reviewable decision.

(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of paragraph (6)(B)(ii) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—

For purposes of paragraph (6)(B) of this subsection, no group health plan that is self-insured and self-administered by an employer (including an employee of such an employer acting within the scope of employment) is excluded from liability by paragraph (6)(B) of this subsection.

(9) REQUIREMENT OF EXHAUSTION.—

(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Patients’ Bill of Rights Act of 2005 (if applicable) have been exhausted.

(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court in connection with any denial of a claim for benefits of any individual with respect to any administratively reviewable decision, if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary within the meaning of section 102(a)(1)(B) of the Patients’ Bill of Rights Act of 2005 and if the court finds that a grant of such relief is in the interest of justice.
shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

"(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits in the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

(i) shall preclude any liability under subsection (1)(C) and this subsection in connection with such claim. The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

(ii) shall not preclude any liability under subsection (1)(C) and this subsection in connection with such claim. The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

"(D) ADMISSIBILITY.—Any determination made by a reviewer in an administrative proceeding under section 102 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

"(E) VARIOUS PROCESSES.—

"(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

"(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

"(11) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or document (notwithstanding the exercise of authority concerning an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed the amount of a plaintiff's personal injury or death that is the subject of the claim.

"(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the amount of a plaintiff's personal injury or death that is the subject of the claim.

"(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply with respect to a directed recordkeeper in connection with any action commenced after 3 years after the later of—

(A) the date on which the plaintiff first knew, or in the exercise of ordinary prudence should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

(B) the date as of which the requirements of paragraph (12)(A) are met.

"(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such action should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

"(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to prevent the acquisition of a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

"(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

"(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

"(B) DETERMINATION BY DISTRICT COURT.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and the distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

"(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instructions of the plan or the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

"(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

"(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

"(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

"(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(ii) of an plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker meets the requirements of subsection (5)(C)(ii) for an employer or other plan sponsor—

(i) all liability of such employer or plan sponsor (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be presumed to be assumed by the designated decisionmaker, and

(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or employee (as the case may be) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

"(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed, without an unconditional liability of the employer or plan sponsor under such designation in accordance with subsection (o)(1), unless the employer or plan sponsor enters into a contract to prevent the service of the designated decisionmaker.

"(19) NO EFFECT ON STATE LAW.—

"(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to such item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

(ii) provide that any item or service would arise from the provision of the item or service or the performance of a medical procedure.

"(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who—

(A) a member of a board of directors of an employer or plan sponsor; or

(B) a member of an association, committee, or group of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

"(21) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

"(A) IN GENERAL.—For purposes of subparagraphs (A)(12)(B) and (C), any designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

(i) such designation is in such form as may be prescribed in regulations of the Secretary,

(ii) the designated decisionmaker—

(A) meets the requirements of paragraph (2),

(B) assumes unconditionally all liability of the employer or plan sponsor involved in a cause of action (as the employer, plan sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 1131(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (A)(12)(B) is in effect relating to such participant and beneficiary,

(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

(iv) where paragraph (2)(B)(i) applies, assumes unconditionally the exclusive authority under the group health plan to make...
medically reviewable decisions under the plan with respect to such participant or beneficiary, and

(C) the designated decisionmaker and the participating health care professional with whom the decisionmaker has assumed liability are identified in the instrument required under section 4202(a) and as required under section 1211(b) of the Patients’ Bill of Rights Act of 2005.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary of the Treasury a certification of such qualification to be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 4202(a) of the Patients’ Bill of Rights Act of 2005.

(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall be construed to mean, in connection with a group health plan to which this subsection applies, that conduct carried out by the defendant with respect to a cause of action to which paragraph (1) relates constitutes conduct carried out by the defendant in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(ii) TREATMENT OF PHYSICIANS.—The term ‘‘managed care entity’’ means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(ii) TREATMENT OF PHYSICIANS.—The term ‘‘managed care entity’’ means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(A) IN GENERAL.—Except as provided in this subsection, nothing in this title including sections 1144 and 1147(d)(9) of this title shall be construed to preclude the right of an employee or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) relates to recover damages resulting from personal injury or wrongful death if such cause of action arises by reason of a medically reviewable decision.

(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term ‘‘medically reviewable decision’’ means a denial of a claim for benefits under the plan which is described in section 114(d)(2) of the Patients’ Bill of Rights Act of 2005 (relating to medically reviewable decisions).

(2) LIMITATION ON PUNITIVE DAMAGES.—

(A) IN GENERAL.—Except as provided in clause (ii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it relates to any punitive damages, if as of the time of the personal injury or death, all the requirements of the following sections of the Patients’ Bill of Rights Act of 2005 are satisfied with respect to the participant or beneficiary:

(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

(II) Section 103 of such Act (relating to internal appeals of claims denials).

(III) Section 104 of such Act (relating to independent external review).

(IV) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

(B) LIMITATION ON PUNITIVE DAMAGES FOR MEDICALLY REVIEWABLE DECISIONS.—

(A) IN GENERAL.—Except as provided in clause (ii), with respect to a cause of action described in subparagraph (A), the term ‘‘medically reviewable decision’’ means a denial of a claim for benefits under a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term ‘‘medically reviewable decision’’ means a denial of a claim for benefits under a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subsection (n)(18)(B), paragraph (1) does not apply with respect to—

(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or other plan sponsor acting within the scope of employment), or

(ii) a right of recovery, indemnity, or contribution by a person or entity that is not a plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) relates.

(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or other plan sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

(C) DIRECT PARTICIPATION.—

(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (A), the term ‘‘direct participation’’ means, in connection with a decision described in subparagraph (B), the actual making of such decision or the advising or controlling the making of such decision or in the conduct constituting the failure.

(ii) RULES OF CONSTRUCTION.—For purposes of subparagraph (A), the term ‘‘employer (or employee)’’ shall not be construed to be engaged in direct participation because
of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

“(i) any participation by the employer or other plan sponsor (or employee) in the selection of health plan or health insurance coverage involved or the third party administrator or other agent;

“(ii) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, health plan or health insurance coverage involved or any benefits under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

“(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the terms and conditions of such benefit and limits connected with such benefit.

“(iv) Irrelevance of Certain Collateral Efforts Made by Employer or Plan Sponsor.—This subparagraph (A) shall not apply to any efforts that were made by the employer or plan sponsor to advocate for the denial or termination thereof in the case of any participant or beneficiary (or any group of participants or beneficiaries), or any other participant or beneficiary (or any group of participants or beneficiaries), or any other plan sponsor (or employee) in the design of any benefit under the plan, including the terms and conditions of such benefit and limits connected with such benefit.

“(v) Requirement of Exhaustion.—

“(A) In General.—Except as provided in subparagraph (D), paragraph (1) shall not apply in connection with any action in connection with any denial of a claim for benefits of any event for which there are preclusive processes under sections 102, 103, and 104 of the Patients’ Bill of Rights Act of 2005 if a denial of such a claim for benefits has already been provided to the participant or beneficiary under the plan or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and (A) does not apply with respect to such a cause of action described in paragraph (1)(A) under State law against the plan sponsor, if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

“(F) Requirement of Exhaustion.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Patients’ Bill of Rights Act of 2005 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

“(G) Tolling Provision.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a determination of appealable right, whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

“(H) Exclusion of Directed Recordkeepers.—

“(A) in General.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to any action against a directed recordkeeper in connection with a group health plan.

“(B) Directed Recordkeeper.—For purposes of this subparagraph, the term ’directed recordkeeper’ means a person engaged in direct recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients’ Bill of Rights Act of 2005 and whose duties do not include making decisions on claims or benefits.

“(C) Limitation.—Subparagraph (A) does not apply to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or employer or other plan sponsor, including, but not limited to, the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or plan sponsor, if so moved by any party, and

“(7) Construction.—Nothing in this subsection shall be construed as

“(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan, or

“(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Patients’ Bill of Rights Act of 2005,

“(ii) the provision of the benefit for the item or service is required under Federal law or applicable State law consistent with such action,

“(B) preempting a State law which requires an affidavit or certificate of merit in a civil action,

“(C) excluding a cause of action under State law other than a cause of action described in paragraph (1)(A),

“(D) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

“(E) Relief from Liability for Employer or Other Plan Sponsor by Means of Designated Decisionmaker.—

“(A) In General.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law against a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to a participant or beneficiary of an employer or plan sponsor (or employee of such employer or plan sponsor) with respect to a cause of action for liability with respect to a participant or beneficiary of an employer or plan sponsor (or employee of such employer or plan sponsor) with respect to such claim.

“(B) Automatic Determination.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participant or beneficiary of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed uncontrolled liability, for purposes of subparagraph (A) with respect to a participant or beneficiary of an employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(C) Treatment of Certain Trust Funds.—For purposes of this paragraph, the term ’employer’ and plan sponsor shall be construed in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph of the liability of a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.)

“(10) Previously Provided Services.—

“(A) In General.—Except as provided in this paragraph, paragraph (1) shall not apply to any cause of action for liability under State law against the plan sponsor for any item or service provided to the participant or beneficiary under the plan or plan sponsor if so moved by any party, and

“(B) Premeditated Determination.—If the external review entity fails to make a determination pursuant to section 104(e)(1)(A) of the Patients’ Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A).

“(C) Exclusion of Certain Trust Keepers.—

“(A) In General.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a cause of action under the plan or plan sponsor with respect to a cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

“(B) Exclusion of Health Trust Funds.—For purposes of this paragraph, the term ’employer’ and plan sponsor in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph of the liability of a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.)

“(D) Exclusion of Recordkeepers.—For purposes of this paragraph, the term ’employer’ and plan sponsor in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph of the liability of a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.)

“(E) Exclusion of Health Trust Funds.—For purposes of this paragraph, the term ’employer’ and plan sponsor in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph of the liability of a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.)
(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) exclude a cause of action from exemption under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or services involved in the denial of coverage under subparagraph (A) or that are part of a continuing treatment or series of procedures;

(ii) exclude a cause of action from exemption under paragraph (1) relating to quality of care; or

(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

(A) a member of a board of directors of an employer or plan sponsor; or

(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor or plan administrator maintained by two or more employers and one or more employee organizations;

shall not be personally liable, by reason of his being a member, to attend any court in which the action was pending upon the account of another member of such association, committee, organization, joint board, or other group of representatives, and any recovery (not including the recovery of any costs or expenses of any proceeding) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

(12) CHOICE OF LAW.—A cause of action exempted from preemption under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

(13) LIMITATION ON ATTORNEYS’ FEES.—

(A) FEE LIMITATION.

Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney’s fee, the amount of an attorney’s contingency fee allowable for a cause of action exempted from preemption under paragraph (1) shall not exceed 1⁄3 of the total amount of the plaintiff’s recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the application of all appeals of the action may review the attorney’s fee to ensure that the fee is a reasonable one.

(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action that is brought in a State that has a law or framework of laws with respect to the amount of an attorney’s contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

(14) PROHIBITION ON TREATMENT RELATED TO HEALTH CARE.—Nothing in this title shall be construed to—

(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law.

(2) superseding any State law permitted under section 152(b)(1)(A) of the Patients’ Bill of Rights Act of 2005, or

(3) applying applicable State law with respect to limitations on monetary damages.

(15) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR INJURY AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which is a non-Federal group health plan or a health insurance issuer under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the participant or beneficiary for the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law arising out of such care or any treatment decision made in connection with such care or such treatment decision is superseded.

(16) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date on which the Secretary issues regulations implementing this section.

SEC. 9813. Standard relating to patients’ bill of rights

(1) IN GENERAL.—A group health plan shall comply with the requirements of the Patients’ Bill of Rights Act of 2005 (in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this title.

(2) CONFORMING ENFORCEMENT FOR WOMEN’S HEALTH AND CANCER RIGHTS

SEC. 1551. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

(2) by inserting after section 9813 the following:

‘‘Sec. 9814. Standard relating to women’s health and cancer rights’’; and

(2) by inserting after section 9813 the following:

‘‘Sec. 9814. STANDARD RELATING TO WOMEN’S HEALTH AND CANCER RIGHTS.

‘‘The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall not apply for group health plans or as if included in this subchapter.’’

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

(2) in the case of insurance not described in paragraph (1), 20 percent.

(c) LIMITATIONS.—

(1) PER EMPLOYER DOLLAR LIMITATION.—The credit under paragraph (2) is subject to a ceiling under subsection (a) with respect to any employee for any taxable year shall not exceed—

(A) $2,000, in the case of self-only coverage, and

(B) $5,000 in the case of family coverage.

In the case of an employee who is covered by a group health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

SEC. 512. QUALIFIED HEALTH BENEFIT PLANS; ORGANIZATIONS; AND STATE AUTHORITIES.

(a) IN GENERAL.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement with such department, agency, or instrumentality shall be deemed to be an organization or authority described in section 9841, and any State to which authority is so delegated shall be deemed to be a State described in section 9841, and the term ‘‘qualified health benefit planning organization or State’’ shall have the meaning given such term by section 9841.

(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement with such department, agency, or instrumentality may enter into an agreement with the Secretary to have the Secretary exercise the authority granted by such department or agency under this title.

SEC. 513. Short title

This title may be cited as the ‘‘Patient Protection and Affordable Care Act’’.
if the annual rate of such employee’s compensation (as defined in section 414(s)) exceeds $10,000.

(4) The term ‘qualified health benefit purchasing coalition’ includes any employee within the meaning of section 414(n).

(5) SMALL EMployee.—The term ‘small employer’ includes any employer within the meaning of section 414(n).

(6) SPECIAL RULES.—

(A) Treatment of certain employers.—The employer’s credit determined under section 45G(b)(2)(B) shall be reduced by an amount equal to

(B) the lesser of

(1) 10 percent of the employer’s credit determined under section 45G(b)(2)(B) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

(2) the portion of the employer’s credit determined under section 45G(b)(2)(B) allocable for that portion of the expenses (other than amounts allocable for compensation of qualified employees) taken into account only if the employer was in existence throughout the current taxable year, the determination under paragraph (1) shall be based on the average number of qualified employers that it is reasonably expected such employer will employ on business days in the current year.

(2) CONFORMING AMENDMENTS.—The table of subsections for chapter 100 of such Code is amended by adding at the end the following new subchapter:

‘‘SUBCHAPTER D—QUALIFIED HEALTH BENEFIT PURCHASING COALITION’’.

(1) IN GENERAL.—A qualified health benefit purchasing coalition shall not—

(A) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans;

(B) assume insurance or financial risk in relation to any health plan, or

(C) perform any activities that it is reasonably expected such employer will employ on business days in the current calendar year.

(3) N O WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with any requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

(3) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

(A) IN GENERAL.—The term ‘small employer’ means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days in the current year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years.

(4) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employers that it is reasonably expected such employer will employ on business days in the current calendar year.

(5) EFFECTIVE DATE.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

‘‘SUBCHAPTER D—QUALIFIED HEALTH BENEFIT PURCHASING COALITION’’.

(a) IN GENERAL.—The Secretary of Health and Human Services shall employ on business days in the current calendar year.

(b) CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) IN GENERAL.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

‘‘(a) IN GENERAL.—(S)ubsection (d) of section 4942(d) shall be treated as 1 person for purposes of this section.

(b) CREDIT TO BE PAID BY GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to tax credits for small business) is amended by adding at the end the following:

‘‘(6) Special rule.—

(A) in general.—(S)ubsection (a) of section 4942(d) shall be treated as 1 person for purposes of this section.

(B) of section 52 shall be treated as 1 person for purposes of section 414(n).

(C) Members of a purchasing coalition shall be treated as 1 person for purposes of section 414(n).

(D) In general.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following:

‘‘(1) IN GENERAL.—Each purchasing coalition under this chapter shall be governed by a Board of Directors.

(2) ELECTION.—The Secretary shall establish procedures governing election of such Board.

(3) MEMBERSHIP.—The Board of Directors shall—

(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employer representatives of such employers, but

(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

(C) MEMBERSHIP OF COALITION.—

(1) IN GENERAL.—A purchasing coalition shall include a group of employers.

(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

(3) VOTING.— Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

(1) enter into agreements with small employers and, at the discretion of its Board, with large employers to provide health insurance benefits to employees and retirees of such employers,

(2) where feasible, enter into agreements with other purchasing coalitions and qualified health plans, to offer benefits to members,
to as the “Secretary”) shall establish a program (in this section referred to as the “program”) to award demonstration grants under this section to States to allow States to demonstrate new and effective ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

1. Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.
2. Individual or small group market reforms.
3. Consumer education and outreach.
4. Subsidies to individuals, employers, or both, in obtaining health insurance.
5. Reinsurance pools.

(b) The Secretary may provide for a portion of the amounts appropriated under subsection (d), as the Secretary finds that under the proposed demonstration grant:

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than mere through a financial participation of a program initiated before the date of the enactment of this Act);
(B) the State will comply with applicable Federal laws;
(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors;
(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(c) The Secretary determines that the demonstration grant will be used consistent with this section.

(d) Application.—The Secretary shall not provide a demonstration grant under the program to a State unless—

1. The application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation of the cooperation of the demonstration grant period; and
2. The Secretary determines that the demonstration grant will be used consistent with this section.

(e) Option to provide for initial planning grants.—Notwithstanding the previous provisions of this section, the Secretary may make an initial planning grant to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall be available until expended.

(2) Application.—The Secretary shall not provide a demonstration grant under the program to a State unless—

1. The State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;
2. The application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation of the cooperation of the demonstration grant period; and
3. The Secretary determines that the demonstration grant will be used consistent with this section.

3. Focus.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

4. Evaluation.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(g) State defined.—For purposes of this section, the term “State” includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and any Commonwealth, possession, or territory of the United States.

Title VI—Effective Dates; Coordination in Implementation
SEC. 601. EFFECTIVE DATES.
(a) Group Health Coverage.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employees, the amendments made by sections 210(a), 401, 501, and 502 (and title I insofar as it relates to plan years beginning on or after October 1, 2006 (in this section referred to as the “general effective date”).

(b) Treatment of Collective Bargaining Agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employees, the amendments made by sections 210(a), 401, 501, and 502 (and title I insofar as it relates to plan years beginning on or after the later of—

1. The date on which the last collective bargaining agreements relate to plan year terminations excluding any extension thereof agreed to after the date of the enactment of this Act; and
2. The general effective date—

shall apply not later than 1 year after the general effective date. For purposes of paragraph (a), any plan amendment made pursuant to a collective bargaining agreement shall apply to the plan year in which the plan solely to conform to any requirement added by this Act shall not be treated as a
termination of such collective bargaining agreement.

(b) Individual Health Insurance Coverage.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the effective date.

(c) Treatment of Religious Nonmedical Providers.—

(1) In General.—Nothing in this Act (or the amendments made thereby) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(2) Transfers.—

(A) Estimate of Secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the amounts of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(B) Transfer of Funds.—If, under paragraph (1), the Secretary estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenue of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mrs. Feinstein (for herself, Mr. Cornyn, Mr. Lautenberg, Mrs. Hutchison, Mrs. Boxer, Mr. Corzine, Mr. Schumer, Mrs. Clinton, Mr. Nelson of Florida, and Mr. Kennedy):

S. 1031. A bill to improve the allocation of homeland security grants and the distribution of homeland security grants.

This is the core of the bill, and I believe it is so important that I will quote in full the operative language, which appears in the very first substantive section of the legislation:

‘‘The Secretary shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.’’

This direction covers the four major first-responder grant programs administered by the Department of Homeland Security in addition to grants for seaport and airport security—called ‘‘covered grants’’ in the bill. These are sections 1, 2, 3, and 4 of the Homeland Security Grant Program.

The bottom line is this: if Federal funds are going to be distributed to improve our national ability to ‘‘prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks,’’ those funds should be distributed in accordance with a risk-based analysis.

In this post-Cold War world of asymmetric threat there are two fundamental principles we should apply to ensure that we make our Nation more secure against a terrorist attack: the first is that understanding and predicting what terrorists will do requires risk analysis.

It is an uncomfortable fact that, even with the best intelligence, we will never know exactly how, when and where terrorists will strike—the best we can do is try to assess risks and threats, and make predictions.

The second principle is that our defense resources are limited. That means tough choices have to be made by both the Congress, and by Executive Branch officials at the Federal, State and Local level.

Together these two principles define what we need to do for our Nation: accurately assess the risks of an array of possible terrorist attacks; measure the vulnerability of all of these possible targets; and then allocate our resources based on that assessment.

Three years ago, we created the Department of Homeland Security in an

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effort to create an institution that could perform this task. The core element of the new Department was to be the Information Assessment and Infrastructure Protection Directorate, which would “merge under one unit to identify and assess current and future threats to the homeland, map those threats against our vulnerabilities, issue timely warnings, and take preventive and protective action.”

We are failing in this effort. The 9/11 Commission agreed, finding that “nothing has been harder for officials—executive or legislative than to set priorities, making hard choices in allocating limited resources.”

The Commission concluded, “Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.”

This bill does just that.

The New York Times, an editorial published last month, titled “Real Security, or Politics as Usual?” agreed:

Any terrorist who has followed how domestic security money is distributed in this country must be encouraged by the government’s ineptness . . . . The current formula is based in part on population, rather than risk. The minimums, set in sparsely populated states that hardly have a plausible terrorism target are raking in money. This is the formula that gave Wyoming seven times more domestic security money per capita than New York . . . If there were a successful attack on Wall Street or the ports of Los Angeles and Long Beach, it would be a blow to the whole nation. Defending places where the terrorist threat is greatest is not parochialism; it is defending America.

Despite these recommendations, we find again and again that scarce resources are allocated based on factors unrelated to real security.

For instance, Congress has established a “small State minimum” designed to ensure that every State gets a substantial portion of scarce resources, regardless of the measure of risk or vulnerability.

As a result, in fiscal year 2004 Wyoming spent $37.32 per capita with homeland security grants, while California and Texas spent $8.75 and $6.93 respectively.

The problem is not just in Congress. For example, a recent Department of Homeland Security Inspector General’s report found that in the critical area of port security, grants are “not well coordinated with the Information Analysis and Infrastructure Protection.”

The result is the “funding of projects with low [risk and vulnerability] scores.”

A recently issued report from the Center for Security Studies and the Heritage Foundation found that there is:

no funding formula that is based on risk analysis and divorced from politics . . . [with] only limited resources available to achieve the almost limitless goal of protecting the United States . . . it is critical that we set priorities.

This bill is a first step to reducing threats of terrorist attack, but Congress can not do it alone.

The Department of Homeland Security must embrace not only the concept of risk-based allocation, but also the practical aspects of the discipline. That means improving the intelligence analysis and vulnerability assessment functions of the Department.

We also need to follow through on last year’s intelligence reform efforts, since the product of the Intelligence Community—analysis of the plans, intentions and capabilities of terrorist groups—is the key element in an effective risk analysis.

This will not be easy. There are lots of vested interests who will oppose such efforts. But our nation’s safety is at stake. It is time to put aside pork-barrel politics and a Cold War mentality and get to work.

Last year Representatives Cox and Turner, the Chair and Ranking Member, respectively, of the other body’s Homeland Security Committee put forth similar legislation.

That effort passed the House of Representatives as part of the Intelligence Reform Bill, but was dropped at conference—that bill has been reintroduced, and is scheduled for consideration on the floor of the House this week.

This bill is based on Chairman Cox’s efforts, and with a few exceptions tracks it closely.

However, unlike the House bill, this bill makes an across-the-board reduction in the minimum to 25 percent—the House bill retains a sliding scale that I believe will have the effect of undercutting its risk-based approach.

In this body, Senators Collins and Lieberman have been working to craft risk-based legislation, which was recently reported favorably by the Senate Homeland Security Committee.

I hope that the bill introduced today will be accepted by Senators Collins and Lieberman in the spirit in which it was drafted—as a reasoned alternative to their approach, and as a starting point for further discussions.

It is my hope that Congress will act quickly to pass this legislation. We cannot afford to wait until it is too late.

Mr. CORNYN. Mr. President, I rise today to join with my colleague, Senator DIANNE FEINSTEIN of California and other of our distinguished colleagues in introducing The Homeland Security FORWARD Funding Act of 2005.

I would like to thank Senator FEINSTEIN for her collaboration in crafting this legislation. I know that she has thoughtfully examined the current state of our Homeland Security Funding and the many other interrelated issues, and I thank her for her fine leadership as we work together exploring ways to better protect our country.

We say it often, and it is true: ’9/11 changed everything. ’9/11 changed even our attacks of that day were unprecedented in our history, and they brought with them the need for similarly unprecedented security measures. In an effort to respond quickly to the devastation that was wrought upon our country, the Federal Government created a system that worked to raise overall national emergency preparedness to ensure we could better guard against another such attack.

And so we embarked on the task of shoring up our airline, transportation, border, and port security. We worked to protect our critical infrastructure, to protect our cyber security, our agriculture and food supply systems.

But taxpayer dollars are not limitless, and Congress must work to ensure every penny be directed where it will do the most good. It is imperative that we guard the places across our nation where terrorists may strike and where such strikes could do the most damage to our people, our government, and our national economy. We believe this is the most responsible way to prepare for any future terrorist attack.

We need to have a system that will protect our most vulnerable population centers, and that recognizes the need to protect the critical infrastructure and vital components of our national economy. I am reminded of a recent tour of several ports. I visited with port directors, industry leaders, and emergency responders in and around the ports of Houston, Beaumont, and Corpus Christi. They have enormous security needs and the consequence of a terrorist attack on any of these facilities would be devastating, not only to the local communities, but to the economic engine of the whole country.

The legislation that Senator FEINSTEIN and I now propose would require that Federal Homeland Security funds be allocated to states according to a risk-based assessment. It is vital that we better allocate our limited resources to the vulnerable places in the country we must protect, and that these funds are distributed in an efficient and timely manner.

Senator FEINSTEIN and I have evaluated the 9/11 Commission recommendations that call for allocation of money based on vulnerabilities, and our legislation provides for a distribution formula for homeland security grants based on three main criteria: Threat, vulnerability, and consequence. This would require states to quickly pass on homeland security funds to where they are most needed. This bill is inspired by the hard work and examination done on this issue by our colleagues in the House and Senate. We have also taken input from stakeholders in our respective States and from across the country. It is our hope that a terrorist attack on introducing this bill we can contribute and enrich the public discourse on this critical issue and help move the Nation toward a more rational and effective distribution of our homeland security resources.

Key provisions of this bill include: establishing a First Responder Grant Board, consisting of Department of
Homeland Security leadership, that will rank and prioritize grant applications based on threat and vulnerability. Enabling a region that encompasses more than one State to apply for funds, The money would still pass through the States, but would go to the region to better coordinate administrative and planning. Provides greater flexibility in using the funds, allowing a State to use them for other hazards consistent with federally established capability standards. And it allows States to request authority to administer other grant programs, but there are penalties for States that do not pass funds to local governments within 45 days, and if a State fails to pass the funds through, local governments may petition the Department of Homeland Security to receive the funds directly.

Continuing to spread Homeland Security funds throughout the Nation irrespective of the actual risk to particular States and communities would be to ignore what we have learned as part of our effort to assess our vulnerabilities since the attacks of September 11. So I would urge that we swiftly work to pass this legislation, to better ensure the safety of our citizens.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to offer the Supporting Our Patriots Business Act. This bill addresses some key concerns I have regarding the impact that military call-ups have on our Nation’s small businesses.

Today, I am offering my legislation in conjunction with the release of a Congressional Budget Office Report entitled “The Impact of Reserve Call-ups on Civilian Employers.” I commissioned the Report a year and a half ago, because I believed then, as I do now, that our country is not doing enough for the patriotic small businesses that are owned by or employ our Guard and Reserve members; and which are negatively effected when these workers are called up in defense of our Nation.

Although I am still analyzing the Report, three key findings immediately caught my attention. For instance, the Report concludes that: 1. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, twenty-six percent work for large businesses, thirty-six percent work for the government, Federal, State, or local, and the remainder work for non-profit organizations. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed or work for small businesses. 2. Over the past decade, the military has dramatically increased its reliance on Guard and Reserve forces.

This trend has accelerated since the terrorist attacks of September 11, 2001. Guard and Reserve members make up about thirty-three percent of deployed service members supporting operations in Iraq and Afghanistan. 3. I am particularly troubled by a third finding which states I have feared all along—that the self-employed, and the small businesses that employ Guard and Reserve members, may be “paying” a disproportionate and unfair share of the burden of in-service Reserve member call-ups. The burden is further magnified when it is the small business owner, or a key employee, who is deployed.

As members of this institution charged with the duty of preserving the public trust, we should work together, on a bipartisan basis, to help diminish the unfair burden these employers and self-employed businesses shoulder. It is difficult enough to leave friends and family behind and enter harm’s way, but asking our military personnel to also jeopardize their livelihood is unconscionable. By assisting these businesses and the self-employed, we are helping to diminish important concerns of our military personnel, improving their morale and positively affecting retention.

The legislation that I offer today contains multiple provisions in support of self-employed Guard and Reserve members and the patriotic businesses that employ Guard and Reserve members.

First, it authorizes increased appropriations for the Small Business Administration’s (SBA) Office of Veteran Business Development, which offers vital services to our Nation’s small businesses that are owned or employ our veterans. For instance, the office has prepared and distributed pre- and post-mobilization packets for small businesses, offers loans, and provides targeted business advice to meet the needs of our veterans and small businesses.

My bill permanently extends the authority and duties of the SBA’s Advisory Committee on Veterans Business Affairs, which has served as an invaluable independent source of advice and policy on veterans’ business issues.

My legislation provides that a service member does not need to satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

I have also included a provision which amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the length of time that their owners are called up in defense of our Nation. Currently, small business owners who are called up to active duty in the Guard or Reserve are effectively penalized for serving because their active duty time is counted against the time limitations on participation of the Small Business Administration’s programs.

Finally, my bill requires that the Department of Defense take measures to counsel Guard and Reserve members concerning the process of notifying their employers in a timely manner after they receive Orders that they will be called up to active duty. The legislation further requires that the DoD investigate ways to diminish the lag between when a military personnel are notified of their call-up and the time that military personnel notify their employers.

Enacting this legislation is an important first step in the right direction toward assisting the brave men and women who serve in our Guard and Reserve and the businesses that employ them. However, I realize that this legislation is merely one of many steps that can and should be taken to this end and I welcome new ideas to help this constituency.

I encourage my colleagues to join me in supporting this bill, and to continue to work with me, as well as veterans, policymakers, businesses, and others, to find additional solutions to address these vital issues.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the Record.

I thank you for allowing me the opportunity to discuss this pressing matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1014
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Supporting Our Patriotic Businesses Act of 2005”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) From September 2001 through November 2004, approximately 410,000 members of the reserve components of the Armed Forces, including the National Guard and Reserves, have been mobilized in support of United States military operations.

(2) According to 2004 data from the Manpower Data Center of the Department of Defense, an estimated 35 percent of Guard members and Reservists are either self-employed or own or are employed by a small business.

(3) The majority of privately employed National Guard and Reserve members either work for a small business or are self-employed.

(4) As a result of activations, many small businesses have been forced to go without the owners and key personnel for months, and sometimes years, on end.

(5) The effects have been devastating to such patriotic small businesses.

The Office of Veteran Business Development of the Small Business Administration has made a concerted effort to reach out to small businesses affected by deployments, but given the sheer numbers of those deployed, their resources have been stretched thin.
(7) In addition, the Office of Veterans Business Development has been required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans.

(8) This Act will help to stem the effects of National Guard and Reservist deployments on small businesses and service-disabled veterans with their business needs.

SEC. 3. INCREASED FUNDING FOR THE OFFICE OF VETERANS BUSINESS DEVELOPMENT.

There is authorized to be appropriated to the Office of Veterans Business Development of the Small Business Administration, and to remain available until expended—

(1) $2,000,000 for fiscal year 2006;

(2) $2,100,000 for fiscal year 2007; and

(3) $2,200,000 for fiscal year 2008.

SEC. 4. PERMANENT EXTENSION OF SBA ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.

(a) ASSUMPTION OF DUTIES.—Section 33 of the Small Business Act (15 U.S.C. 677c) is amended—

(b) CLERICAL AMENDMENT.—Section 263 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 676c note) is amended by striking subsection (b).

SEC. 5. PROFESSIONAL AND OCCUPATIONAL LICENSING.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (38 U.S.C. App. 1001 et seq.) is amended by adding at the end the following new section:

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding at the end the following:

SEC. 6. RELIEF FROM TIME LIMITATIONS FOR VETERAN-OWNED SMALL BUSINESSES.

Section 3(q) of the Small Business Act (15 U.S.C. 632(q)) is amended by adding at the end the following:

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding at the end the following:

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(2) the Committees on Armed Services and Small Business of the House of Representatives.

Background: From September 2001 through November 2004, approximately 250,000 National Guard and Reserve personnel have been mobilized in support of current operations. Thirty-five percent of Guard and Reserve members work full or part-time, and the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. As a result of deployments, many of these small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end. The effects have been devastating to these patriotic businesses and to their owners and employees.

This Act will help stem the effects of Guard and Reservist call-ups on small businesses and better assist veterans and service-disabled veterans with their business needs.

Section 1.—Title, “The Supporting Our Patriotic Businesses Act.”

Section 2.—Findings.

Section 3.—Authorizes increased appropriations for the Small Business Administration’s (SBA) Office of Veterans Business Development. Appropriations are increased from $2 million for Fiscal Year 2006, $2.1 million for Fiscal Year 2007 and $2.2 million for Fiscal Year 2008.

Reasoning: The SBA’s Office of Veteran Business Development has made a concerted effort to reach out to small businesses affected by military deployments, but given the sheer number of those deployed, their resources have been stretched thin. In addition, the Office of Veterans Business Development is now required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans. This provision will allow the SBA’s Office of Veteran Business Development to better assist our nation’s veterans and provide them the business services they need.

Section 4.—Permanently extends the authority and duties of the SBA’s Advisory Committee on Veterans Business Affairs.

Reasoning: The SBA’s Advisory Committee on Veterans Business Affairs has served as a vital, independent source of advice and policy on veterans business issues to: the SBA Administrator; the SBA’s Associate Administrator for Veterans Business Development; the Congress; and other U.S. policymakers. The Advisory Committee was commissioned under P.L. 106–50 and is set to terminate its duties on September 20, 2006. This provision will help ensure that the Advisory Committee’s vital duties, and the information it provides, are continued.

Section 5.—Provides that a service member need not satisfy any continuing education requirements imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

Reasoning: Many Guard and Reserve personnel have continuing education requirements that they are unable to satisfy because of being called to active duty. These patriotic individuals should not have to satisfy these requirements while they are on active duty, and they should not have to satisfy these requirements in the future because of being called to active duty. This provision is a floor, not a ceiling. It should not discourage State or other entities from offering extended benefits/breaks to deployed Guard and Reserve members.

Section 6.—Amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the duration of their owners’ active duty service after September 11, 2001.
The Act empowers consumers by giving them the ability to purchase an affordable health insurance policy with a range of options. Consumers will no longer be limited to picking only those policies that meet their State’s regulations and mandated benefits. Instead, they can examine the wide array of insurance policies qualified in one State and offered for sale in multiple states. Consumers can choose the policy that best suits their needs, and their budget, without regard to State boundaries. Individuals looking for basic health insurance coverage can opt for a policy with few benefit mandates, and such a policy will be more affordable. On the other hand, consumers who have an interest in a particular benefit, such as infertility treatments, will be able to purchase a policy which includes that benefit.

The Health Care Choice Act will help the uninsured find affordable health insurance, while also providing every American with more and better health insurance choices. The bill harnesses the power of the marketplace to allow Americans to purchase their insurance choices to their individual needs. I am grateful to Congressman Shadegg for introducing the Health Care Choice Act in the House today, and I urge my Senate colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

The being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1015

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

SECTION 1. SHORT TITLE.

This Act may be cited as ‘‘Health Care Choice Act of 2005’’.

SEC. 2. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This Act is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-pooling and bulk-purchasing plans has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 4. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) In General.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

*PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE*

SEC. 2795. DEFINITIONS.

In this part:

(1) PRIMARY STATE.—The term ‘‘primary State’’ means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose laws are to govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to the coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

(2) SECONDARY STATE.—The term ‘‘secondary State’’ means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy to a resident of, or a secondary State, the issuer is deemed to be doing business in that secondary State.

(3) HEALTH INSURANCE INSURER.—The term ‘‘health insurance issuer’’ has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ‘‘individual health insurance coverage’’ means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

(5) APPLICABLE STATE AUTHORITY.—The term ‘‘applicable State authority’’ means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

(6) HAZARDOUS FINANCIAL CONDITION.—The term ‘‘hazardous financial condition’’ means the condition of an issuer based on its financial or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(B) to pay other obligations in the normal course of business.

(7) COVERED LAWS.—The term ‘‘covered laws’’ means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

(i) individual health insurance coverage issued by a health insurance issuer;

(ii) the offer, sale, and issuance of individual health insurance coverage to an individual; and

(iii) the provision to an individual in relation to individual health insurance coverage of—

(C) health care and insurance related services;

(iiim) management, operations, and investment activities of a health insurance issuer; and

(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provided insurance.

(8) STATE.—The term ‘‘State’’ means only the 50 States and the District of Columbia.
Sec. 2796. APPLICATION OF LAW.

(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the covered and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

(b) Exemptions from Covered Laws in a Secondary State.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, renewal, and continuation of individual or group health insurance to an individual, or to the group in which the individual is a member, in any secondary State is exempt from any covered laws of the secondary State (and any rule, regulation, or order governing the insurance business of insurers, reinsurers, or other person engaged in the solicitation of insurance or reinsurance contracts) to the extent that such laws would—

(1) make unenforceable, regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer to—

(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers, brokers, or policyholders under the laws of the State;

(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

(C) to submit to an examination of its financial condition, or to participate, on a nondiscriminatory basis, in any coordinated, consolidated, or comprehensive plan for the examination of insurers and surplus lines insurers, applicable premium and other taxes (including the mandated by the law of the State of the secondary State) to the extent that such laws would—

(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

(ii) in a voluntary dissolution proceeding;

(E) to comply with any State law regarding fraud and abuse.

(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

(A) move or reclassify the individual insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual, or

(B) increase the premiums assessed the individual for such coverage based on a health-status related factor or change of health-status related factor or the past or prospective claim experience of the insured individual.

(d) PREHISTORY ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.

(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

(A) move or reclassify the individual insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual, or

(B) increase the premiums assessed the individual for such coverage based on a health-status related factor or change of health-status related factor or the past or prospective claim experience of the insured individual.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2722; or

(B) from raising premium rates for all policy holders within a class based on claims experience.

(3) Exclusions, limitations, or conditions that are not applicable to all individuals, and

(i) are disclosed to the consumer in the insurance contract;

(ii) are based on specific wellness activities that are not applicable to all individuals; and

(iii) are not obtainable by all individuals to whom coverage is offered.

(4) FROM CHANGING PREMIUMS OR OFFERING DISCOUNTED PREMIUMS TO INDIVIDUALS WHO ENGAGE IN WELLNESS ACTIVITIES AT INTERVALS PRESCRIBED BY THE ISSUER, IF SUCH PREMIUM CHANGES OR INCENTIVES—

(i) are disclosed to the consumer in the insurance contract;

(ii) are based on specific wellness activities that are not applicable to all individuals; and

(iii) are not obtainable by all individuals to whom coverage is offered.

(5) FROM REIMBURSING INCURRED CLAIMS; OR

(E) FROM RETROACTIVELY ADJUSTING THE RATES CHARGED AN INDIVIDUAL INSURED INDIVIDUAL IF THE INITIAL RATES WERE SET BASED ON MATERIAL INFORMATION REPRESENTATION BY THE INSURER AT THE TIME OF ISSUE.

(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

(f) LICENSES OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—
(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

(A) a plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State, its principal place of business);

(B) written notice of any change in its designation of its primary State; and

(C) written notice from the issuer of the issuer’s compliance with all the laws of the primary State; and

(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the plan of operation or feasibility study, or a copy of the issuer’s quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

(A) a member of the American Academy of Actuaries; or

(B) a qualified loss reserve specialist.

(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person who is not eligible for such insurance; or

(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

(i) STATE POWERS TO ENFORCE STATE LAWS.

(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to enforce the covered laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (b), such injunction must be obtained from a Federal or State court of competent jurisdiction.

(j) STATES’ AUTHORITY TO SUPE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the application or enforcement of any State laws generally applicable to persons or corporations.

SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

(a) A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to that prescribed in the Health Carrier External Review Model Act of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

SEC. 2798. ENFORCEMENT.

(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State’s covered laws in the primary State and any secondary State.

(b) SECONDARY STATE’S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

(c) COURTS OF COMPETENT JURISDICTION.—In reviewing an action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State to determine whether the applicable laws of the secondary State are inconsistent with the covered laws of the primary State.

(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

SEC. 5. SEVERABILITY.

If any provision of the Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any other person or circumstance shall not be affected.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CROMPTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, I rise today to introduce legislation reauthorizing appropriations for the Water Resources Research Institutes established by the Federal, State, and local water agencies for working on challenging water resource problems. The Federal grants allow immense leverage capacity for conducting water research activities and are the key to maintaining a valuable national network.

In addition to research, the outreach and information transfer activities of the Institutes are highly valued by multi-level stakeholders at the local, State and regional levels. The Institutes provide important multi-level stakeholders at the local, State and regional levels. The Institutes provide important information dissemination and technology transfer activities of the Institutes are highly valued by multi-level stakeholders at the local, State and regional levels. The Institutes are the training grounds for the next generation of the Nation’s water management, economic and environmental engineers.

This nationwide network of water institutes provides an efficient and effective method to meet the diverse water resource needs in different parts of our country.

Another key component of the program is the importance of its small Federal grants for leveraging funding from non-federal sources to identify and address local and State needs for water research. Without this Federal seed money, many institutes would lose a valuable resource and the visibility within their universities and among Federal, State and local water agencies for working on challenging water resource problems. The Federal grants allow immense leverage capacity for conducting water research activities. The Federal grants allow immense leverage capacity for conducting water research activities.
Mr. SARBANES. Mr. President, I am pleased to introduce the Federal Employee Commuter Benefits Act of 2005, which is cosponsored by my colleagues Senators MIKULSKI and WARNER. This bill will guarantee transit benefits to all Federal employees in the National Capital Area and will remove a restriction that currently forbids Federal agencies from providing employee shuttles to and from transit stations. This measure is an important step forward in our efforts to encourage transit ridership and improve the quality of life for those who live and work in the Washington, D.C. region and throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic and environmental impact, and personal frustration. According to the Texas Transportation Institute, in 2003 Americans in 85 urban areas spent 3.7 billion hours stuck in traffic, with an estimated cost to the nation of $64.8 billion in lost time and wasted fuel. In response, Americans are turning to alternative transportation in record numbers. The American Public Transportation Association estimates that Americans now take over 9 billion trips on transit per year, the highest level in more than 40 years.

The Texas Transportation Institute has estimated that without transit, the 85 urban areas they studied would have suffered an additional 1.1 billion hours of delay, a 27 percent increase, which would have added $6.8 billion to the national cost of congestion.

Transit benefit programs are playing a vital role in increasing transit ridership, which benefits both transit users and drivers. In 1998, the Transportation Equity Act for the 21st Century amended the tax code to allow financial incentives related to commuting costs for both employers and employees. These transit benefits allowed employers to offer a tax-free financial incentive toward the costs of transit commuting, starting at $60 per month and raised in 2005 to $105 per month.

Based upon the findings of the Environmental Protection Agency and the U.S. Department of Transportation, there are significant benefits to congestions, energy efficiency, and air quality from transit benefit programs. According to their findings, an employer with 1,000 employees that participates in a combination of transit benefits, carpool, and telecommuting programs can take credit for taking 175 cars off the road, saving 44,000 gallons of gasoline per year, and cutting global warming pollution by 420 tons per year on average.

In April 2000, an Executive Order was signed requiring all executive branch agencies in the National Capital Region to offer transit benefits to their employees. As a result, Federal employees commuting to Washington, D.C. from Montgomery, Prince George’s, and Frederick Counties, Maryland, several counties in Northern Virginia, and as far away as West Virginia, are encouraged to choose transit as their means to get to work.

According to the Department of Transportation, more than 150,000 employees—more than one-third of all Federal employees in the National Capital Region—joined the Federal transit benefit program created by the Executive Order. These program participants alone have eliminated an estimated 12,300 single-occupancy vehicles from Washington, D.C., roads, helping to reduce congestion and improve air quality for our region.

The Executive Order, however, is limited. It does not cover employees in the legislative and judicial branches, for example, or in dozens of independent agencies. While many of the employers in those organizations provide transit benefits to their employees, the implementation and level of benefit is up to the discretion of individual offices. As such, many of these organizations provide limited benefits or do not provide any benefits at all. Guaranteed transit benefits would give these employees more choice in their commuting options, providing incentives to move off our congested roadways and onto public transit.

Of course, such incentives will be ineffective if employees lack access to transit services. In the State of Maryland, the United States Food and Drug Administration planned to use its own resources to provide a shuttle service for its employees from its new White Oak facility to an area Metro station. When they investigated providing this service, FDA officials found that the current law does not allow federal agencies to use their own vehicles to shuttle employees to mass transit stations.

The potential impact of this restriction on regional congestion is not insignificant. By the middle of this year, FDA expects to have 1,850 employees located at the new White Oak facility, and plans have been made to eventually house more than 7,000 FDA researchers and administrators at the new facility. The lack of access from FDA’s new campus to a transit station represents a lost opportunity for reducing congestion, improving our environment, and elevating the quality of life for employees.

This type of lost opportunity occurs across the nation. Nationally, the Federal Government employs more than 2.6 million civilian workers at more than 3,000 Federal Government office buildings. At Federal offices throughout the country, transit use is often limited as a commuting option due to lack of employee access to a transit station or a bus stop.

The Federal Employee Commuter Benefits Act would address both of these issues faced by Federal employees. First, the bill would put into law the Executive Order’s requirement that transit benefits be available to all qualified Federal employees in the National Capital Region. This bill also extends the requirement beyond executive branch agencies to include the legislative and judicial branches and the independent agencies, providing guaranteed transit benefits to thousands of additional federal employees in the Washington, D.C. region.
Second, the Federal Employee Commuter Benefits Act would remove the restriction that prohibits a Federal agency from operating a shuttle service to a public transit facility. With this legislation, any Federal agency, anywhere in the United States, can choose to provide a transit shuttle service for their employees. By providing access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that can make getting to work easier, more comfortable, and more employee-friendly. It will also provide an opportunity to help reduce congestion and improve air quality across the Nation.

Since 1982, the U.S. population has grown 20 percent, but the time spent by commuters in traffic has grown by over 200 percent. Each year, traffic congestion wastes nine billion gallons of fuel. By encouraging federal employees to look to transit and by providing access to transit stations, we can help reduce congestion, improve the environment, and promote an improved quality of life.

I am introducing the Federal Employee Commuter Benefits Act because of the opportunities it will give federal agencies to support public transportation, both by providing employees access to transit facilities across the nation, and by providing transit benefits to federal employees in the Washington D.C. region. Both of these improvements will aid our efforts to fight congestion by encouraging the use of transportation alternatives. This legislation is strongly supported by federal employees, transit providers, and local elected officials, and I ask unanimous consent that the text of the bill, along with letters of support, be printed in the RECORD. I encourage my colleagues to join me in supporting the Federal Employee Commuter Benefits Act.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1018
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Federal Employee Commuter Benefits Act of 2005”.

SEC. 2. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.
(a) In General.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which Federal agencies offering in or under such agency shall be offered transit pass transportation fringe benefits, as described in subsection (b).

(b) BENEFITS DESCRIBED.—The benefits described in this subsection are the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are required by Federal agencies in the National Capital Region on the date of enactment of this Act.

(c) DEFINITIONS.—In this section—
(1) the term “agency” means any agency, to the extent of its facilities in the National Capital Region;

(2) the term “agency” means any agency (as defined by 7090(a)(2) of title 5, United States Code), the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(3) the term “National Capital Region” includes the District of Columbia and every county or other geographic area covered by section 3 of Executive Order 13150;

(4) the term “Executive Order 13150” refers to Executive Order 13150 (5 U.S.C. 7906 note);

(5) the term “Federal agency” is used in the same way as under section 2 of Executive Order 13150;

(6) any determination as to whether or not one is a “qualified Federal employee” shall apply under section 2 of Executive Order 13150.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to require that a covered agency—
(1) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement the provisions of this Act, or discontinue (on or after the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law;

(2) discontinue (on or after the effective date referred to in subsection (a)) any program or benefits referred to in paragraph (1), so long as such programs and benefits satisfy the requirements of subsections (a) through (c).

SEC. 3. AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSPORT FACILITIES.

(a) In General.—Section 1344 of title 31, United States Code, is amended—
(1) by redesignating subsection (g) and (h) as subsections (h) and (i), respectively; and

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

‘‘(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer’s or employee’s place of employment and a mass transit facility pursuant to subsection (g) is applicable in any case in which a passenger carrier is used in accordance with succeeding provisions of this subsection.

(2) Notwithstanding section 1345, a Federal agency may provide transportation services under this subsection (including by passenger carrier) to absolve the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

(3) In carrying out this subsection, a Federal agency shall—
(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

(B) to the extent consistent with the purpose of this Act, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes;

(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

(D) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the performance of duty by virtue of the fact that such individual is receiving transportation services under this subsection.

(E) A passenger carrier that, in providing transportation services under this subsection, is a qualified Federal employee by virtue of the fact that such passenger carrier is used in accordance with succeeding provisions of this subsection.’’.

(b) Coordination.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by subsection (a)) shall be in addition to any authority otherwise available to the Federal Government.

The AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 12, AFL-CIO,
Hon. PAUL SARBANES
U.S. Senate, Washington, DC.
Subject: H.R. 1283
We appreciate very much all the work you have done on behalf of Federal employees, in particular your work to assist our local in our three year battle to have the monthly transit subsidy raised to $100.
We respectfully request that you sponsor and introduce in the Senate a companion bill to H.R. 1283. The purpose of H.R. 1283 is “To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.”
H.R. 1283 was introduced by Congressman Jim Moran and is co-sponsored by Representatives Eleanor Holmes Norton, Albert Wynn, Charles Rangel, John Conyers, Frank Wolf, and Earl Blumenauer. It has been referred to the House Government Reform Committee.

I hope that you will support this legislation.

I am a strong supporter of programs to reduce congestion and air pollution. It will also benefit the region generally by giving federal employees in the Washington, D.C. region a new and improved transportation option.

We appreciate your support of this legislation.

Sincerely yours,

[Signature]

LAWRENCE C. DRAKE, JR.
President
month, to be made available to all executive branch employees; pursuant to Executive Order 13150, the number of executive branch employees utilizing transit subsidies grew from 55,000 to 155,000 participants, reducing highway vehicle miles commuted by over 40 million.

The Washington DC metropolitan area’s traffic congestion is overall the country’s third worst and is worse than any other metropolitan area outside California.

As the region’s largest employer, the Federal government has the capacity and the moral duty to significantly reduce road overcrowding and its consequent pollution by providing employees the option to use public transit. This would encourage more widespread mass transit use.

Legislation codifying transit benefits for Federal employees in the Washington DC metropolitan area and repealing restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers, universally approved by the House Government Reform Committee in the previous Congress, has been re-introduced as H.R. 1283 by Rep. Jim Moran and six co-sponsors; and

Codifying these benefits would help remedy Executive Order 13150’s lack of legal recourse against agencies willfully ignoring its requirements.

There are an estimated 2.5 million Federal employees in the Washington DC metropolitan area and repealing restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers; and

AFGE 12 likewise urges other organizational entities with which it is affiliated in the American Federation of Government Employees (AFGE) to actively seek enactment of such legislation.

DEAR SENATOR SARBANES: On behalf of the American Public Transportation Association (APTA), I write to express strong support for legislative proposals to codify Federal employee commuter benefits contained in the legislation you are proposing that would expand Federal employee commuter benefits.

We believe it is important that the Federal government support the use of public transportation in its efforts to reduce congestion, minimize air pollution, and make the benefits of existing public transportation facilities more accessible to Federal employees. APTA has been a long-time proponent of providing federal transit tax incentives, a program that results in not less than the levels provided for parking.

We thank you for your leadership on this issue. If you have questions, please have your staff contact Rob Healy of APTA’s Government Affairs Department at (202) 496-4911 or e-mail rhealy@apta.com. We look forward to working with you to see this important legislation enacted into law.

Sincerely yours,

William W. Millar, President.

Metro,
April 11, 2005.

Hon. PAUL S. SARBANES, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am pleased to offer the Washington Metropolitan Area Transit Authority’s (WMATA) endorsement of the legislation you are proposing containing federal employee commuter benefits. This legislation is very important in supporting regional efforts to use every feasible technique to reduce the severe traffic congestion in the National Capital Region.

The recently released Texas Transportation Institute (TTI) report on congestion cites the metropolitan Washington region as the third most congested in the nation, despite intense transit use by commuters in this area.

The TTI report cites a number of strategies that help to reduce congestion and the cost of delay to the residents of the region. For the Washington metropolitan area, the TTI report indicates that transit services save the metropolitan area more than $1 billion annually in delay costs and over 32 percent of current delay time. The metropolitan Washington region is fifth in the nation in terms of the hours of delay saved because of the public transportation network. The TTI report demonstrates the positive effects of transit services on reducing traffic congestion in the Washington metropolitan area. With the relentless traffic in this region, it is critical that transit ridership continues to grow to relieve road congestion.

It’s essential that the federal government as the region’s largest employer, employing more than 374,000 people in this area, give employees every incentive to take transit. The tremendously successful transit benefits program, known in this area as Metrochek, is currently available to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House of Representatives. The legislation codified in Executive Order 13150 on October 1, 2000, the number of federal employees receiving transit benefits has increased 166 percent, from 57,000 to 151,800 and 47 percent of Metrorail’s peak period riders are federal employees—up from 35 percent in the mid-1980s.

Your proposal will codify the federal employee commuter benefits program and its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the program, this legislation ensures that participation will be uniform across all three branches of the Federal government.

WMATA also supports the proposal to authorize the establishment of federal agency shuttles to and from mass transit facilities. Many federal agencies throughout the region are within walking distance of Metro rail stations, and other transit facilities, some are not. This legislation will make it possible for many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many of the leadership in proposing this legislation. It is another example in a long list of initiatives you have sponsored to promote public transportation in the National Capital Region and the nation.

Sincerely,

Richard A. White, General Manager and Chief Executive Officer.

May 12, 2005.

Hon. PAUL SARBANES, Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: I am writing to you to express the support of the Virginia Railway Express for your introduction of legislation that would provide transit pass transportation fringe benefits to all qualified Federal employees in the National Capital Region. As someone who has always been an advocate for the promotion of public transportation and the mobility it affords the citizenry, we are fortunate to have you as the Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs, which oversees mass transit programs.

As you have witnessed, increased federal investment in transit services has led to dramatic growth in public transportation ridership, particularly in the National Capital Region. The Virginia Railway Express is a prime example of that growth, with ridership increasing by 17% each year for the past four years, making us one of the fastest growing commuter railroads in America. Nearly 90% of our ridership is comprised of federal and/or military employees working in the region.

Currently, transit benefits are offered to a select core of federal employees under Executive Order 13150. The benefits are limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Your legislation would codify transit benefits to all eligible federal employees by broadening the scope of participation to another 100,000 workers, thus providing greater flexibility and mobility for the federal work force in the region.

Your legislation is significant not only because it affords greater options to our federal workforce, but also because the use of public transit is the only viable option to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove more than 1,000 cars from the roadway during peak commuting rush hours in the morning and the evening. Not only does it reduce car emissions; thus improving air quality, it also enables federal and private workforce to get to work in a timely fashion; thus saving millions of dollars for employers. The passage of this legislation would only increase these benefits to our region.

In conclusion, let me again thank you for all the support that you have given to public transportation over the years. Gathering this much needed legislation, I hope that with your direct involvement that we will be successful in seeing this measure signed into law.

Sincerely,

Dale Zeinner, Chief Executive Officer.

By Mr. DURBIN:
S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a
Mr. DURBIN. Mr. President, I rise today to introduce the Welcome Home G.I. Bill. Similar to the GI Bill for soldiers returning from World War II, this Welcome Home G.I. Bill establishes a program of benefits designed to reward returning veterans and ease their transition into civilian life.

These benefits would be available to troops who deployed for six months or more outside the United States in support of military, combat, contingency, peacekeeping or humanitarian operations after September 11, 2001. The bill also covers troops who do not meet the six-month service requirement because they were discharged earlier for medical or hardship reasons.

This bill provides our returning heroes with improved health care, education and job training assistance, and help with a down-payment on a home. Returning warriors deserve better health care coverage. Currently, upon separating from the military, active duty service members receive six months of healthcare coverage as a "transition" benefit and thereafter may enroll for an additional 18 months under the current Health Care Benefit Program provided they pay required premiums. Reservists released from active duty can pay premiums to obtain a year of coverage for every three months they were mobilized.

Under the Welcome Home G.I. Bill, a returning veteran who is unable to secure health care coverage from an employer would be entitled to exactly the same medical care they received while in the service. Veterans would be entitled to this benefit for up to five years.

Our troops also deserve better medical screening before and after deployments. Current law establishes a system of pre-deployment and post-deployment medical examinations, including laboratory, mental health and dental examinations, and the drawing of blood samples, to accurately record the medical condition of members before and after their deployment.

The Welcome Home G.I. bill improves the quality of pre-deployment and post-deployment medical screening by requiring that the pre-deployment exam include disease screening and the collection of clinical data such as vital signs, immunization history and past physical and dental histories.

It also requires post-deployment medical screening to include a self-administered survey in which the service member may report information about any relevant exposures during the period of deployment. These provisions will help identify veterans with conditions that were caused by deployment. In addition, the bill requires all medical centers to establish an electronic record of deployment health screening results so the information will be available to answer any future questions about the ailments' connection to military service.

Returning warriors need access to educational opportunities that can enhance their employment prospects in civilian life after they depart military service. Currently active duty troops have the option of enrolling in the Montgomery G.I. Bill education benefits program, under which the service member contributes $100 per month for 12 months while in service and then later may receive up to $1,004 per month in education benefits for up to 36 months. Under the Welcome Home G.I. Bill reservists receive some portion of the active duty benefit depending on the length of their activation. Under the Welcome Home G.I. Bill, our Iraq and Afghanistan veterans both active duty and mobilized reserve component troops would receive education or job training benefits worth a maximum of $75,000 over 48 months. So this bill basically adds a little more than $500 per month to the current benefit and extends it for an extra year. The benefit could also be used to repay student loans. In addition, qualifying troops who previously enrolled in the Montgomery G.I. Bill program would have their contribution refunded.

Finally, the Welcome Home G.I. Bill helps our returning veterans realize the American dream of owning their own home. For a 5-year period after completion of their qualifying service, returning veterans may receive a tax-free $5,000 down payment for the first-time purchase of a home. Our veterans who have endured the burdens of war, under the most trying conditions, at tremendous personal risk and sacrifice, deserve more than they are currently provided by this law upon their return. They deserve the improved health care, education and job training, and home-ownership assistance which this bill provides. I invite my colleagues to join me in supporting this bill.

Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

The COMPETE Act also reforms and improves the U.S. Patent Trademark Office (PTO). It is no secret that patents drive America's high-tech economy, America must act now to maintain our competitive advantage and remain ahead of the curve.
why the COMPETE Act establishes a tax credit that will help “upskill” America’s workers so that they can compete in an economy increasingly more dependent on information, communication and technology (ICT) skills. Indeed, ICT skills are today’s newest raw material and are the intellectual property that will leverage the expertise and resources of the private sector and those in the university community to establish joint regional training and research centers. These centers will provide training and technical assistance to teachers so they will be better equipped to get students interested in math and science at an early age.

The COMPETE Act rewards high performing schools in math and science and at the same time provides an incentive to get involved in helping high-needs schools to improve in the areas of math and science. Finally, the COMPETE Act establishes a matching grant program where federal and private resources will be used to help graduate students in science, technology, engineering and mathematics meet the cost of getting a graduate degree. This grant program will also support outreach and mentoring activities to increase the participation of underrepresented groups in these fields at every level of education.

“Today is the time to prepare for tomorrow and the COMPETE Act represents an important step in helping to prepare the U.S. to succeed in meeting the challenges of a rapidly changing world. The COMPETE Act will help the U.S. remain ahead of the curve when it comes to competing in today’s global economy. That is why a number of diverse groups including the Business Roundtable, the Credit Coalition, National Council of Teachers of Mathematics, National Science Teachers Association, Computing Technology Industry Association (CompTIA), American Association for the Advancement of Science, National Association of State Universities & Land-Grant Universities, ASSE Engineering Deans Council, Council of Graduate Schools, American Society for Training & Development, Association of American Universities, and the Intellectual Property Owners Association support one or may of tile provisions of the COMPETE Act.

I ask unanimous consent that their letters of support be printed in the Record.

Today our economy is both more vulnerable and more successful than it has ever been. To ensure that we are maximizing our chances for success, we need to help employees and individuals innovate. We need a workforce that has the skills necessary to compete in a worldwide economy that is increasingly dependent on technology. We need to focus on math and science education to ensure that America continues to produce the best engineers and scientists in the world. And above all, we need to do those things necessary to make the U.S. the best place to do business in the world. The bottom line is we all want America’s companies to stay competitive, pay their workers and provide jobs here at home so they can do what every mom and dad wants to do and that is give our kids a better life than we had. That’s what the COMPETE Act is all about.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:


MINNESOTA MUST COMPETE IN A GLOBAL ECONOMY

The Federal Reserve Bank of Minneapolis recently published the findings of the annual survey conducted by Minnesota Technology Inc. and the Minnesota Department of Employment and Economic Development. The clear message from Minnesota businesses is that globalization is here to stay and it’s not all bad. ‘It’s the new hard reality,’ said Ron Kirsch, president of Donnelly Custom Manufacturing Co. in Alexandria.

Indeed, for all the hand wringing over outsourcing and the fact that Bemidji has to compete with Bangalore, it’s clear that an increasingly global economy has been a net gain for Minnesota.

The results showed that state manufacturers and service providers in industries most likely to be affected by globalization are integrating rapidly into the global community, whether through importing, exporting, off-shoring or foreign direct investment. The Fed said in fedgazette, its monthly publication.

For instance, a dozen years ago, Donnelly did very little importing and no exporting. Today it imports components, materials and tools, and exports its custom-built products around the world. ‘We couldn’t compete if we didn’t,’ Kirsch said.

Some executives even admit that globalization has made them more competitive.

‘There’s always the feeling that the fewer the competitors the better,’ said Steven Chepp, president of Minnetonka-based Feldcraft Co. ‘But in a sort of convoluted fashion it is possible to make a positive out of this. It forces us to make ourselves better and better.’

According to the survey, about 21 percent of respondents were importers and 32 percent exporters in 1998. Today both numbers are around 40 percent.

About 20 percent of those surveyed reported increased employment and production during the same period. On wages, about 43 percent of businesses expect them to increase; 38 percent see no changes and 19 percent see a decrease due to increased global competition. Perhaps more important, businesses expect to add more new production jobs between now and 2008 than they did between 1998 and 2003.

Not surprisingly, the top three reasons cited for outsourcing and importing were to reduce or control costs, increase revenue and increase overall competitiveness. About 43 percent of businesses expect the cost of employee health care benefits was a key factor in their decision to move jobs offshore or out of state. About one-third said wages and taxes chased those companies.

Team Industries, a designer and manufacturer of power trains for recreational vehicles, has manufacturing plants in six Minnesota cities, and a market reach that extends around the globe. Jason Roue, general manager at the company’s Baxter plant in central Minnesota, noted that in the past few years the company has expanded its network of global sourcing.

It now imports lower-cost parts and raw material from around the world. And at the same time have seen significant export growth as international demand for its product has increased.

“If we plan on staying in business, we’re going to have to adapt,” said Roue. “By adopting global sourcing and lean manufacturing techniques, so he feels like protecting ourselves from foreign competitors, mainly in China and Korea, we think we can meet the challenge of global competition.”

The COMPETE Act, which notes that new businesses “feel” about globalization, “they seem to understand that membership is not negotiable, but required.” We agree. Furthermore, we’d argue that when state and local lawmakers are considering new taxes and regulations, even with a projected budget shortfall of $1.4 billion, they also need to consider Minnesota compares with not just Seattle and Shreveport, but Shanghai and Singapore. For the Fed study makes clear that the world—not just our country—is increasingly the competitive landscape on which Minnesota must compete.

INTELLECTUAL PROPERTY OWNERS ASSOCIATION, Washington, DC, May 12, 2005.

Hon. Norm Coleman, Senate Hart Office Building, Washington, DC.

Hon. Mark Pryor, Senate Dirksen Office Building, Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: In- tellectual Property Owners Association (IPO) writes to voice its strong support for Title III of the COMPETE Act of 2005. As you know, IPO has long advocated ending diver- sion of the user fees paid by patent and trademark applicants to the U.S. Patent and Trademark Office (USPTO) and Title III of the COMPETE Act of 2005 would accomplish this goal.

Intellectual property rights including patents and trademarks are the currency that drives America’s high-tech economy. Yet, the USPTO currently faces not only a work- load crisis, but also questions about the quality of the patents it grants.

IPO’s recommended objectives for the USPTO are to: (1) improve patent quality, (2) reduce the time it takes applicants to get a patent, and (3) achieve cost effectiveness in all operations. IPO has supported the USPTO’s “21st Century Strategic Plan” as a way to achieve these objectives. As of now, the USPTO has been hampered by lack of funding. Last year, Congress passed legislation raising patent application fees by 15 percent. The fees are designed to provide more than $200 million a year in additional revenue to the USPTO through September 2006; however, a long term solution to USPTO’s funding problems is still needed.

America’s innovators remain prepared to pay out of our own pockets to improve the system. As provided that the money will go to the agency and not be dis- verted to unrelated programs. This fear is not unfounded, given that Congress diverted more than three-quarters of a billion dollars of fees paid by patent and trademark appli- cants to unrelated government programs from 1992 until 2004.

IPO believes that it is reasonable and just that the USPTO keep 100 percent of its own patent and trademark fees. To allow
for anything less would be a disservice to inventors and entrepreneurs and a drag on our nation’s competitiveness and productivity.

We thank you for supporting America’s innovators by introducing legislation that would end the practice of fee diversion, and we are committed to working with you to ensure that such legislation is enacted into law.

Sincerely,

HERBERT C. WAMSLEY, Executive Director.


Hon. NORM COLEMAN,
U.S. Senate, Washington, DC.

Dear Senator Coleman: On behalf of the American Society for Training & Development (ASTD), thank you for introducing the COMPETE Act. The Council of Graduate Schools (CGS) and its 460 plus member institutions are very grateful for your leadership in addressing the important issue of American competitiveness. The European Union, China, India and many other countries are making large investments in education, research and development, greatly expanding their ability to compete in the global economy. The United States cannot afford to coast on its past successes and must invest now to maintain our economic preeminence and national security in the years ahead.

The policy changes you propose include providing a new matching fund program to promote competitiveness through higher education, extension and enhancement of the R&D tax credit, and improvements to the Federal patent and trademark process. These policy proposals, when combined with other initiatives to support math and science education in elementary and secondary schools establish a solid foundation for a longer-term, comprehensive agenda designed to maintain our nation’s leadership in innovation, research and discovery.

We are also appreciative of your additional legislative efforts to increase global competition for the best and the brightest. As you know, the U.S. must continue welcoming qualified international students to our country and simultaneously implementing policies to address declining participation of domestic students across key fields in science, technology, engineering, mathematics and critical foreign languages.

Thank you for your leadership in addressing American competitiveness and for supporting the vital role played by graduate education as a key part of our national strategy to maintain our leadership in the global economy.

Sincerely,

DEBRA W. STEWART.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “COMPETE Act of 2005”.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Collaborative Opportunities to Mobilize and Promote Education, Technology and Enterprise (COMPETE) Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents of this Act:

TITLE I.—TAX INCENTIVES

SUBTITLE A—RESEARCH CREDIT

Sec. 101. Extension of research credit.
Sec. 102. Increase in rate of alternative incremental credit.
Sec. 103. Alternative simplified credit for qualified research expenses.
percent of the qualified research expenses for the taxable year.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: “An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.”

(2) TRANSITION RULE.—In the case of an election under subsection (a)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such taxable year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Education

SEC. 111. CREDIT FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"SEC. 30B. INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of information and communications technology education and training program expenses paid or incurred by the taxpayer for the benefit of—

(1) a taxpayer engaged in a trade or business, an employee of the taxpayer, or

(2) in the case of a taxpayer who is an individual not so engaged, such individual.

"(b) LIMITATIONS.—

(1) EMPLOYERS.—In the case of any taxpayer described in subsection (a)(1), the amount of expenses which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

(A) the excess of—

(i) the sum of—

(I) $10,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred qualified and communications technology education and training expenses, over

(ii) the average amount of such expenses paid or incurred by the taxpayer with respect to all employees for the 3 preceding taxable years, or

(B) the sum of—

(I) 10,800 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred such expenses, plus

(ii) the average amount of such expenses paid or incurred by the taxpayer with respect to all employees for the 3 preceding taxable years, or

(2) OTHERS.—In the case of any employer other than an employer of the type described in paragraph (1), the coordination exclusion amount.

"(1) the amount (if any) of the limitation applicable to such employee under subsection (b)(2) which such employee does not assign to such employer, bears to

(ii) $2,500 ($4,000 in the case of an employee who is a qualified individual).

"(C) APPLICABLE LIMITATION.—For purposes of subparagraph (b), the term ‘applicable limitation’ means the amount under paragraph (2) with respect to such employee which is calculated by such employer to calculate the limitation under such paragraph.

"(D) Qualification.—The term ‘qualified individual’ means an individual—

(A) with respect to whom all information and communications technology education and training program expenses paid or incurred in connection with a program operated by an employer-owned information technology training provider (A) in an empowerment zone or enterprise community designated under part I of subchapter U or a renewal community designated under part I of subchapter X, (B) in a school district in which at least 50 percent of the students in such district are eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act, (C) in an area designated as a disaster area by the Secretary of Agriculture or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the taxable year or any of the 4 preceding taxable years, (D) in a rural enterprise community designated under section 566 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996, (E) in an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone, (F) in an area over which an Indian tribal government defined in section 770(a)(40) has jurisdiction, or

(G) who is receiving a benefit under chapter 2 of title II of the Trade Act of 1974.

"(C) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.—For purposes of this section—

(1) in general.—The term ‘information technology education and training program expenses’ means expenses paid or incurred by reason of the participation of the taxpayer—or an employee of the taxpayer—in any information and communications technology education and training program. Such expenses shall include expenses paid in connection with—

(A) course work,

(B) certification testing,

(C) programs carried out under the Act of August 16, 1982 (29 U.S.C. 50 et seq.), which are registered by the Department of Labor, and

(D) other expenses that are essential to acquiring information technology training or information technology training organization.

(2) EFFECTIVE DATE.—The term ‘employer-owned information technology training organization’ means a private sector organization providing information and communications technology education and training program.

(3) DISALLOWANCE OF OTHER CREDITS AND DEDUCTIONS.—No deduction or credit shall be allowed under any other provision of this Act for expenses taken into account in determining the credits under this section.

(4) LIMITATION ON EMPLOYER-OWNED INFORMATION TECHNOLOGY TRAINING ORGANIZATION.—

(1) IN GENERAL.—The term ‘employer-owned information technology training organization’ means a private sector organization providing information and communications technology training to its employees using internal training development and delivery personnel. The training programs must use industry-recognized training, standards, and evaluation methods, comparable to institutional and commercial training providers.

(5) DEDUCTION FOR HOPE AND LIFETIME LEARNING CREDITS.—The amount taken into account under subsection (a)(2) shall be reduced by the amount of credits allowable for any taxable year shall not exceed the excess (if any) of—

(A) the sum of the regular tax liability (as defined by section 26(b)(1)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under part B and section 27 for the taxable year.

(6) INFLATION ADJUSTMENTS.—In the case of calendar years beginning after 2004, the dollar amounts under paragraphs (1), (2), and (3) of subsection (b) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 31(d)(3) of the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 30B. Information and communications technology education and training program expenses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.
SEC. 112. ELIGIBLE EDUCATIONAL INSTITUTION.
(a) In General.—Section 25A(f)(2) of the Internal Revenue Code of 1986 (relating to eligible educational institution) is amended to read as follows:

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ‘eligible educational institution’ means—

(A) an institution—

(i) which is described in section 101(b) or 102(a) of the Higher Education Act of 1965, and

(ii) which is eligible to participate in a program under title IV of such Act, or

(B) a commercial information and communications technology training provider (as defined in section 30B(c)).

(b) Conforming Amendment.—The second sentence of section 221(d)(2) of the Internal Revenue Code of 1986 is amended by striking ‘section 25A(f)(2)’ and inserting ‘section 25A(f)(2)(A)’.

(c) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 113. ALTERNATIVE PERCENTAGE LIMITATIONS AND CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.
(a) In General.—Section 170(b) of the Internal Revenue Code of 1986 (related to percentage limitations) is amended by adding at the end the following new paragraph:

"(2) Special rules for corporate contributions to the mathematics and science partnership program.—

"(A) In general.—In the case of a corporation which makes an eligible mathematics and science contribution—

(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

(ii) paragraph (2) shall be applied with respect to the eligible mathematics and science contributions by substituting ‘15 percent’ for ‘10 percent’.

(B) Eligible mathematics and science contributions.—

"(1) In General.—For purposes of this paragraph, the term ‘eligible mathematics and science contribution’ means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 220(c) of the Elementary and Secondary Education Act of 1965, but only to the extent that such partnership does not include a person other than a person described in paragraph (1).

(b) Effective Date.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

TITLE II —EDUCATION PROVISIONS
SEC. 201. REGIONAL TRAINING AND RESEARCH CENTERS.
(a) Centers established.—From amounts appropriated under subsection (f), the Director of the National Science Foundation shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to establish 10 regional training and research centers to help maintain the Nation’s workforce and education investment and infrastructure in the sciences, technology, engineering, and mathematics.

(b) Eligible entity defined.—In this section the term ‘eligible entity’ means a partnership or organization of the kind described and 1 or more of the following entities:

1. A research organization.
2. An organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that—

(A) is exempt from taxation under section 501(a) of such Code; and

(B) has expertise in the sciences, technology, engineering, or mathematics.

3. A trade or labor organization.

(c) Location.—The Director of the National Science Foundation shall award a grant for the establishment of 1 regional training and research center in each of the 10 geographic regions of the United States that is served by a regional educational laboratory under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564).

(d) Designation.—Each regional training and research center established under this section shall be known as a ‘Making American Competitive Center’ (MAC Center).

(1) Use of funds.—(I) In general.—Each eligible entity receiving a grant under this section shall use the grant funds to establish a regional training and research center that—

(A) provides training, technical assistance, and professional development in the sciences, technology, engineering, and mathematics, to or for States, local educational agencies, qualified teachers, and schools, in the region served by the regional training and research center;

(B)(i) develops and funds joint cooperative programs, for qualified teachers and students, with a trade or business related to the sciences, technology, engineering, or mathematics; and

(ii) develops instructional materials and teaching techniques for the 10 regions and the nation as a whole in these areas of the sciences, technology, engineering, and mathematics for use in primary and secondary schools in the region served by the center; and

(C) builds networks among the sciences, technology, engineering, and mathematics resources within the 10 regions and nationally.

(2) Qualified teacher.—For purposes of paragraph (1)(B), the term ‘qualified teacher’ means any individual who—

(A) teaches one or more courses in grades 4 through 12 primarily in—

(i) science;

(ii) computer science;

(iii) occupational preparation with respect to vocational and technical occupations;

(iv) engineering; or

(v) mathematics; and

(B) (i) receives a baccalaureate or similar degree with a major or a minor in the sciences, technology, engineering, or mathematics from a college, university, vocational school, or other postsecondary institution eligible to participate in a student aid program administered by the Department of Education; and

(ii) is a teacher who is highly qualified (within the meaning of section 9011(b)) of the Elementary and Secondary Education Act of 1965.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $350,000,000 for fiscal year 2009; and

(2) $270,000,000 for fiscal year 2010; and

(3) $500,000 for each of fiscal years 2011 through 2015.

SEC. 202. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.
(a) In General.—From amounts appropriated under subsection (d), the Secretary shall award a grant—

(1) for each of the school years 2005-2006 through 2014-2015, to each of the 5 elementary and secondary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students’ average score on the State’s assessments in mathematics from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded; and

(2) for each of the school years 2009-2010 through 2014-2015, to each of the 5 elementary and secondary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in science, as measured by the improvement in the students’ average score on the State’s assessments in science from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded.

(b) Grant amount.—The amount of each grant awarded under this section shall be $500,000.

(c) Application.—Sections 2201, 2202, and 2203 shall not apply to this section.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006; and

(2) $260,000,000 for each of fiscal years 2007 through 2010; and

(3) $290,000,000 for each of fiscal years 2011 through 2015.

SEC. 203. MATCHING FUNDS PROGRAM TO PROMOTE AMERICAN COMPETITIVENESS THROUGH GRADUATE EDUCATION.
(a) Purpose.—The purpose of this section is to promote America’s economic competitiveness and job creation by—

(1) assisting graduate students studying the sciences, technology, engineering, and mathematics;

(2) advancing education in the sciences, technology, engineering, and mathematics;

(3) stimulating greater links between private industry and graduate education; and

(4) enabling the Office of Science of the Department of Energy to establish a matching funds program for eligible institutions of higher education.

(b) Definitions.—In this section:

(1) Eligible institution of higher education.—The term ‘eligible institution of higher education’ means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001), that—

(A) enters an established program of post-baccalaureate study leading to a graduate degree in the sciences, technology, engineering, or mathematics; and

(B) enters into a written agreement with the Director pursuant to subsection (e) to carry out the authorized activities described in the application submitted under subsection (d).

(2) Director.—The term ‘Director’ means the Director of the Office of Science of the Department of Energy.

(c) Grants.—

(1) Grants authorized.—The Director is authorized to award grants, on a competitive basis, to eligible institutions of higher education to carry out authorized activities described in subsection (e). The cost of the authorized activities to be ascertained under subsection (e) shall be equal to 25 percent of the funds received under the grant.

SEC. 2204. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.
(a) In General.—From amounts appropriated under subsection (d), the Secretary shall award a grant—

(1) for each of the school years 2005-2006 through 2014-2015, to each of the 5 elementary and secondary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students’ average score on the State’s assessments in mathematics from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded; and

(2) for each of the school years 2009-2010 through 2014-2015, to each of the 5 elementary and secondary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in science, as measured by the improvement in the students’ average score on the State’s assessments in science from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded.

(b) Grant amount.—The amount of each grant awarded under this section shall be $500,000.

(c) Application.—Sections 2201, 2202, and 2203 shall not apply to this section.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006; and

(2) $260,000,000 for each of fiscal years 2007 through 2010; and

(3) $290,000,000 for each of fiscal years 2011 through 2015.

S5113

CONGRESSIONAL RECORD—SENATE
May 12, 2005
(f) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated to carry out this section—
(1) $50,000,000 for fiscal year 2006;
(2) $60,000,000 for fiscal year 2007;
(3) $70,000,000 for fiscal year 2008;
(4) $80,000,000 for fiscal year 2009; and
(5) $80,000,000 for fiscal year 2010.

TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION

SEC. 301. PATENT AND TRADEMARK OFFICE FUNDING.
(a) AMENDMENT.—Section 42(c) of title 35, United States Code, is amended—
(1) by striking “(c)” and inserting “(c)(1)”; and
(2) by adding at the end the following:
“(2) the source and amount of the matching funds from private sources;”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 2006 and each fiscal year thereafter.

By Mr. ENZI (for himself and Mr. KENNEDY):
S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Workforce Investment Act Amendments of 2005. I am pleased to be joined in this important effort by Senator KENNEDY, the Ranking Member of the Health, Education, Labor and Pensions Committee.

The Workforce Investment Act (WIA), together with Perkins Career and Technical Education Act, which we passed earlier this year, and the Higher Education Act, which we will consider in the next few months, will provide the important resources that are needed to adequately prepare our workforce with the skills that are necessary for jobs and careers in high wage and high skilled occupations. We are facing an economic challenge that threatens our ability as a nation to compete in the global economy. As we heard from the witnesses who testified at a hearing held on April 14, 2005, before the Health, Education, Labor and Pensions Committee, we have too few workers with too few skills. The skill and literacy requirements of today’s workplace cannot be met if we do not provide every- one access to lifelong education, training and retraining.

Sixty percent of tomorrow’s jobs will require skills that only 20 percent of today’s workforce possess. About half of our current workforce does not have a postsecondary education degree or credential, when all projections are that job growth over the next decade will be in jobs that require some postsecond- ary education or training.

Technology is demanding that every- one continue to learn and gain skills.

In January of this year the labor force participation rate for individuals over the age of 16 who are willing and able to work was 68.8 percent, the lowest in over 15 years, as more Americans conclude that they cannot meet the skill demands of today’s workplace and choose to no longer participate in the workforce.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1021

Be it enacted by the Senate and House of Represent- atives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Workforce Investment Act Amendments of 2005”.

SEC. 2. TABLE OF CONTENTS.
The table of contents of this Act is as follows:
1. Short title.
2. Sec. 2. Table of contents.
3. Sec. 3. References.
taking into account the size of the employer and such other factors as the local board determines to be appropriate; and

(ii) in the case of customized training (as defined in section 121(b)(8) of title 10, United States Code) who meets the criteria described in section 121(b)(2) of such title, and is appointed by the Governor,

constitutions, who have been nominated by State councils, to a more comprehensive array of employer and employee training and related services, especially to a more comprehensive array of employment and training and related services, and including urban and rural areas.

III. The term ‘promotion and training’ means programs that are demand-driven and responsive to the needs of hard-to-serve populations and minority workers, including effective trainingclkng and providing for more effective partnerships that are described in section 121(b) and (c) respectively; and

THE PRECEDING PROVISIONS OF SUBTITLE B ARE UNEFFECTIVE.

SEC. 111. PURPOSE.

The purpose of this subtitle is as follows:

(1) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome on employers.

(2) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies.

(3) To equip workers with higher skills and provide for more effective partnerships that are described in section 121(b) and (c) respectively; and

(4) To equip workers with higher skills and contribute to life cycle care and sustaining workforce investment activities.

(5) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies.

(6) To allow flexibility to meet State, local, regional, and individual workforce investment needs.

(7) To recognize and reinforce the vital link between economic development and workforce investment activities.

(8) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome on employers.

(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies.

(10) To equip workers with higher skills and contribute to life cycle care and sustaining workforce investment activities.

(11) To eliminate training disincentives for hard-to-serve populations.

(12) To educate limited English proficient individuals about skills and language so the individuals are employable.

(13) To increase the employment, retention and earnings of individuals with disabilities.

SEC. 112. STATE WORKFORCE INVESTMENT BOARDS.

(a) MEMBERSHIP.—(1) IN GENERAL—

Section 111(c) (29 U.S.C. 2821(b)) is amended by striking paragraph (1), by striking subparagraph (C) and inserting the following:

The term ‘workforce’ means a target group who meets the criteria described in this section.

The term ‘work-ready’ means an individual who meets the criteria described in this section.

The term ‘workforce investment activity’ means a program that is demand-driven and responsive to the needs of hard-to-serve populations and minority workers, including effective training and providing for more effective partnerships.

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The term ‘workforce investment activity’ means a program that is demand-driven and responsive to the needs of hard-to-serve populations and minority workers, including effective training and providing for more effective partnerships.
(1) in paragraph (1), by striking “development” and inserting “implementation, improvement, and revision;”

(2) in paragraph (2)—

(A) by striking “section 134(c)” and inserting “section 121(e);” and

(B) in subparagraph (A), by inserting after “section 121(b)” the following: “,” including granting the authority for the State employment service under the Wagner-Peyser Act (29 U.S.C. 2821-2822 and section 136) to plan and coordinate employment and training activities with local boards by—

(3) by striking paragraph (3) and inserting the following:

“(3) reviewing and providing comment on the one-stop centers and one-stop partner programs, where applicable, in order to provide effective strategic leadership in the development of a high quality, comprehensive statewide workforce investment system, including commenting at least once annually on the measures taken pursuant to section 113(b)(3) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (29 U.S.C. 2923(b)(3) and title II of this Act);”

(4) by redesigning paragraphs (4) through (9) as paragraphs (5) through (10), respectively.

(5) by inserting after paragraph (3) the following:

“(4) development and review of statewide policies that coordinate the delivery of services through the one-stop delivery system described in section 121(e) within the State, including—

“(A) by development of objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers under section 121(c);”

“(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(b)(1)(B) and 132(b);”

“(1) statewide policies relating to the appropriate roles and contributions of one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;

“(ii) statewide strategies for providing effective services to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system;

“(iii) statewide strategies to expand and improve the network of community-based organizations, including local boards, to provide assistance to employers and individuals, including those with disabilities, consistent with section 116(a)(4);”

“(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and the provision of outreach, intake, the conduct of assessments, service delivery, the development of assessments and performance measures, the identification of the levels of performance under sections 128(b)(3) and 133(b)(3);”

“SEC. 113. STATE PLAN.

(a) PLANNING CYCLE.—Section 112(a) (29 U.S.C. 2822(a)) is amended—

(1) by inserting “, before,” before “plan;” and

(2) by inserting “, and modifications to the State plan,” before “plan;” and

(3) by adding at the end the following:

“(b) AUTHORITY TO HIRE STAFF.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

“(1) in clause (ii), by striking “,” before “funds”;

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

“(c) ALTERNATIVE ENTITY.—Section 111(e) (29 U.S.C. 2821(e)) is amended—

(1) by striking “For” and inserting “Subject to paragraph (3), for,”; and

(2) by adding at the end the following:

“(d) CONFLICT OF INTEREST.—Section 111(f)(1) (29 U.S.C. 2821(f)(1)) is amended by inserting “and participate in action taken” after “vote”;

“(e) SUNSHINE PROVISION.—Section 111(g) (29 U.S.C. 2821(g)) is amended—

(1) by inserting “, and modifications to the State plan,” before “plan;” and

(2) by inserting “, and modifications to the State plan,” after “plan.”

(3) AUTHORITY TO HIRE STAFF.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

“(b) AUTHORITY TO HIRE STAFF.—

“(1) in general—The State board may hire staff to—

“(A) perform the functions described in subsection (d) using funds allocated under sections 127(b)(1)(C) and 132(b).

“(2) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the State board, either as a direct cost or through any prorations, at an indirect cost, at a rate in excess of the maximum rate payable But, as described in section 116(a)(2), the Secretary may require the State to establish a State board in accordance with subsections (a), (b), and (c) in lieu of the alternative entity established under paragraph (1).

“SEC. 114. CONTENTS.

(a) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) by adding—

“(A) a description of the State strategy for coordinating workforce investment activities and economic development activities, for providing training and microenterprise services; and

“(B) a description of the State strategy for coordinating the provision of outreach, intake, the conduct of assessments, service delivery, the development of assessments and performance measures, the identification of the levels of performance under sections 128(b)(3) and 133(b)(3);”

(b) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraphs (1)(A)—

“(A) in clause (ix), by striking “,” and after the semicolon;

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

“(XX) programs and activities described under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to Medicaid and section 116(a)(2)(B);” and

“SEC. 115. ALTERNATIVE ENTITY.

(a) IN GENERAL.—Section 113(b)(2) (29 U.S.C. 2823(b)(2)) is amended—

(1) by striking “,” and after the semicolon;

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

“(XX) programs and activities described under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to Medicaid and section 116(a)(2) of such Act (42 U.S.C. 1397 et seq.) (relating to block grants to States for social services), programs authorized under title VII of the Rehabilitation Act (29 U.S.C. 701 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and

“(C) by striking paragraph (10) and inserting the following:

“(10) a description of how the State will use funds the State receives under this subtitle to leverage other Federal, State, local, and private resources in order to maximize the effectiveness of such resources, expand resources for the provision of education and training services, and expand the participation of businesses, employees, and individuals in the statewide workforce investment system, including a description of incentives and technical assistance the State will provide to local areas for such purposes;”

“(2) in paragraph (12)(A), by striking “sections 128(b)(3)(B) and 133(b)(3)(B)” and inserting “sections 128(b)(3) and 133(b)(3);”

“SEC. 116. ALTERNATIVE ENTITY.

(a) IN GENERAL.—Section 113(b)(3) (29 U.S.C. 2823(b)(3)) is amended—

(1) by inserting “,” and after the semicolon;

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

“(C) by strike...
businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career pathways, utilization of incentives and technical assistance provided for training providers for strategies to engage employers in workforce investment activities, and to better coordinate workforce investment efforts to contribute to the economic well-being of the local area, as determined appropriate by the board:

(23) a description of the State strategy—

(A) for ensuring cooperation between transportation providers, including public transportation providers, and providers of workforce investment activities; and

(B) for ensuring coordination among appropriate State agencies and programs to make available skills training, employment services, and career readiness, advancement activities, that will assist re-entrants in reentering the workforce;

(24) a description of how the State will assist local areas in assessing physical and programmatic accessibility for individuals with disabilities at one-stop centers;

(25) a description of the process and methodology that will be used by the State board to—

(A) review statewide policies and provide guidance to the State plan for identifying provisions of services through the onestop delivery system described in section 121(e);

(B) establish, in consultation with chief elected officials and local boards, objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system as described in section 121(g); and

(C) determine—

(i) performance of partner program contributions for the costs of the infrastructure of one-stop centers under section 121(h)(2); and

(ii) the formula for allocating the funds described in section 121(h)(2) to local areas.

(26) a description of the State strategy for ensuring that activities carried out under this title are placing men and women in jobs, ensuring that activities carried out under this title are consistent with the objectives of this title; and

(27) a description of how the State will assist local areas in assessing physical and programmatic accessibility for individuals with disabilities at one-stop centers;

(a) Designation of Areas.—

(1) Considereations.—Section 116(a)(1) (29 U.S.C. 2831(a)(1)) is amended—

(A) by striking ‘‘subsection (a),’’ (B) by striking ‘‘paragraphs (2), (3), and (4)’’ and inserting ‘‘paragraphs (2) and (3)’’; and

(b) in subparagraph (B), by adding at the end the following:

(1) the extent to which such local areas will promote maximum effectiveness in the administration of the provisions of this title;

(2) in subparagraph (2) (A) of section 116(a)(2) (29 U.S.C. 2831(a)(2)) is amended to read as follows:

‘‘(2) Automatic designation.—

(A) in general.—The Governor shall approve a request for designation as a local area that is submitted prior to the submission of the State plan relating to area designation, from any area that—

(i) is a unit of general local government with a population of no more than 1,000,000; and

(ii) is served by a rural concentrated employment program grant recipient that, at any time during the 2-year period following any such designation under the initial State plan submitted after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation from such area if such area—

(I) performed successfully; and

(II) sustained fiscal integrity;

(ii) was a local area under this title for the preceding 2-year period, if such local area—

(I) performed successfully; and

(II) sustained fiscal integrity;

(iii) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

(I) performed successfully; and

(II) sustained fiscal integrity;

(iii) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

(I) performed successfully; and

(II) sustained fiscal integrity;

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(C) in paragraph (3) (as redesignated by subparagraph (A)(i));

(i) by striking ‘‘(including temporary designation)’’; and

(ii) by striking ‘‘(v)’’ and inserting ‘‘(vi)’’; and

(D) in paragraph (4) (as redesignated by subparagraph (B)—

(i) by striking ‘‘under paragraph (2) or (3)’’ and inserting ‘‘under paragraph (2)’’; and

(ii) by striking the second sentence.

(c) Single Local Area States.—

(1) Continuation of Previous Designation.—Notwithstanding subsection (a)(2), the Governor of any State that was a single local area for purposes of this title as of July 1, 2005, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a single local area in the State plan under section 112(b)(3).

(2) Effective Date.—The designation of a State not described in paragraph (1) may designate the State as a single local area if, prior to the submission of the State plan on or pursuant to such plan so designating the State, no local area meeting the requirements for automatic designation under subsection (a)(2) requests such designation as a separate local area.

(3) Effect on Local Plan.—In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 118 for the area shall be submitted to the Secretary for approval as part of the State plan under section 112.

(d) Regional Planning Boards.—Section 116(c) (29 U.S.C. 2831(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

‘‘(1) in general.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of performance standards for workforce investment activities authorized under this subtitle. The State, after consultation with local boards and chief elected officials, may require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region, as required under section 118. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures pursuant to section 116(b)(1).

(2) (B) Technical Assistance.—If the State requires regional planning as provided in subparagraph (A), the State shall provide a mechanism for the collection and labor market information to such local areas in the designated regions to assist with regional planning and subsequent service delivery efforts.

(3) in paragraph (3), by adding at the end the following:

‘‘Such services may be required to be coordinated with economic development services and strategies.’’;

SEC. 115. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) Compensation.—Section 117(b) (29 U.S.C. 2832(b)) is amended—

(1) in paragraph (2) (A)—

(A) in clause (1), by striking subclause (i) and inserting the following:

‘‘(i) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and

(B) by striking clause (ii) and inserting the following:

‘‘(ii) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and

(C) in clause (2), by striking ‘‘businesses, employers, and to better coordinate work-}
with experience serving out-of-school youth, local area; and
representing such agencies or institutions.

(ii) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nomi-

nated by striking and inserting “, including small employ-

ees,” and (B) by striking the period and inserting “, taking into account the unique needs of small businesses.”;

and (E) by striking and inserting the following:

(9) TECHNOLOGY IMPROVEMENTS.—The local board shall develop strategies for tech-

nology improvements to facilitate access to service providers, for services au-

thorized under this subtitle and carried out in the local area.

(e) CONFORMING AMENDMENT.—Section 117(f)(2) (29 U.S.C. 2832(f)(2)) is amended by striking “described in section 134(c)”.

(f) CONFLICT OF INTEREST.—Section 117(g)(1)(x) (29 U.S.C. 2832(g)(1)(x)) is amended by inserting “and participate in action taken on” after “vote.”

(g) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h)(3) (29 U.S.C. 2832(h)(3)) is amended to read as follows:

(1) COUNCILS.—The local board may establish or continue councils to provide informa-

tion, analysis, and advice to the local board.

(2) COUNCILS.—The council may include representatives from the State em-

ployment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services that will be initiated in the local area.

SEC. 118. FUNDING LEVELS.

(a) ONE-STOP PARTNERS.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

(1) by striking subparagraph (A) and inserting—

(A) by inserting “and joining a description of the one-stop delivery system to the programs and activi-

ties carried out by the entity, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services; and

(b) the increased leveraging of resources other than those provided under this title, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services; and

SEC. 117. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) ONE-STOP PARTNERS.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking “9-year” and inserting “4-year”;

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

(11) a description of the strategies and ini-

tives carried out by the entity, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services; and

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) by striking “8-year” and inserting “4-

year”;

and (2) by adding at the end the following: “At the end of the first 2-year period of the 4-

year plan, the local board shall review and, if needed, amend the 4-year plan to reflect labor market and economic conditions.”;

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking “and”; and

(B) by striking subparagraph (B) and (C) and inserting—

(B) a description of how the local board will coordinate workforce investment activi-

ties carried out in the area with economic development activities carried out in the area, including tax credits, private sector-provided training and microenterprise services;

(11) enter into a local memorandum of understanding with the local board relating to the delivery system to the programs and activities carried out by the entity, including making the core services described in section 134(d)(2) that are applicable to the program of the entity available at the one-stop centers (in addition to any other appropriate lo-

locations);

(13) a description of the strategies and ini-


tives carried out in the local area with other Federal, State, and local area education, job training, and economic development pro-

grams and activities; and

(iii) the local board may hire staff.

(iv) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the local board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS-15 of the General Schedule, as in effect on the date of enactment of the Workforce Invest-

ment Act Amendments of 2005.

(v) in paragraph (4), by inserting “, and shall ensure the appropriate use and manage-

ment of the funds provided under this sub-

title for procurement, programs, services, and sys-
tem” after “area”; and

(vi) in paragraph (6)—

(3) by redesigning paragraph (10) as para-

graph (16); and

(4) by inserting after paragraph (9) the fol-

lowing:

(a) a description of how the local board will coordinate workforce investment activi-

ties carried out in the area with eco-

nomic development activities carried out in the area, including tax credits, private sector-provided training and microenterprise services;

(“ii”) a superintendent representing the local school districts involved or another high-level official from such districts;

(“iii”) an administrator of local entities providing early childhood education services, session and literacy activities in the local area;”;

(C) in clause (iv), by inserting “, hard-to-

serve populations,” after “disabilities”; and

(D) by striking clause (v), by striking “and” at the end;

and (E) by striking clause (vi) and inserting the following:

(1) a council composed of one-stop partners to advise the local board on the oper-

ation of the one-stop delivery system in-

volved;

(2) a youth council composed of experts and stakeholders in youth programs to ad-

vise the local board on youth activities; and

(3) such other councils as the local board determines are appropriate.

(h) ALTERNATIVE ENTITY PROVISION.—Section 117(i)(1) (29 U.S.C. 2832(i)(1)) is amend-

ed—

(1) in the matter preceding subparagraph (A), by striking “and paragraphs (1) and (2) of subsection (h),”;

(2) by striking subparagraph (B) and insert-

ning the following:

(B) was in existence on August 7, 1998, pursuant to State law; and;

(3) by striking subparagraph (C) and (D) and redesigning subparagraph (D) as subpar-

agraph (C).

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking “9-year” and inserting “4-

year”;

and (2) by adding at the end the following: “At the end of the first 2-year period of the 4-

year plan, the local board shall review and, if needed, amend the 4-year plan to reflect labor market and economic conditions.”;

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking “and” after the semicolon;

(B) by striking subparagraph (B) and inser-

ring the following:

(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system in-

volved, in remote areas, including facili-

tating access through the use of technology; and”;

and

(C) by adding at the end the following:

(C) a description of how the local board will ensure physical and programmatic access-

ibility for individuals with disabilities at one-stop centers;

(2) in paragraph (9), by striking “; and” and inserting a semicolon;
to the operation of the one-stop system that meets the requirements of subsection (c);

“(iv) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the programs carried out by the entity; and

“(v) the Governor or the State board in the extent provided under section 111;”

(B) in subparagraph (B)—

(i) by redesignating clauses (vi) through (xii) as clauses (vii) through (xii), respectively;

(ii) by striking subsection (c) as redesignated by clause (ii), but at the end;

(iii) in clause (x) (as redesignated by clause (i)), by striking the period and inserting “; and”;

(iv) by adding at the end the following:

“(xiii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C);”

(C) by adding at the end the following:

“(D) by striking the period and inserting “; and”;

“(E) by adding at the end the following:

“(xiv) Self-Sufficiency program established under section 1320b-1 (29 U.S.C. 2841) administered by the Social Security Administration, including the Ticket to Work and Work Incentives Act of 1998;”

(D) in subparagraph (b)—

(i) by redesignating clauses (ii) through (vi) as clauses (i) through (v), respectively;

(ii) by striking clauses (i) through (iii) and inserting the following:

“(A) I N GENERAL .

(B) ADDITIONAL PARTNERS .

(C) DETERMINATION BY THE GOVERNOR .

(i) the services to be provided through the one-stop system consistent with the guidelines and guidance procedures for determining the manner in which the services will be coordinated through such system;

(ii) the costs of such services and the operational structure of the one-stop system will be funded, through cash and in-kind contributions, to provide a stable and equitable funding stream for ongoing one-stop system operations funding of one-stop system infrastructure costs of one-stop centers in accordance with subsection (b);

“(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

(iv) methods to ensure the needs of hard-to-serve populations are addressed in providing access to services through the one-stop system; and

(v) the inclusion of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such amendments not less than once every 2-year period to ensure appropriate funding and delivery of services; and

“(D) CONFORMING AMENDMENT .

Section 121(d)(2) (29 U.S.C. 2841(d)(2)) is amended by striking “section 134(c)” and inserting “section 121(d)(2)”;

(i) LOCAL MEMORANDUM OF UNDERSTANDING.

—

“(A) IN GENERAL .

—

320. (B) LOCAL MEMORANDUM OF UNDERSTANDING.—Section 121(c)(2)(A) (29 U.S.C. 2841(c)(2)(A)) is amended to read as follows:

“(A) IN GENERAL.—With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out human resource programs described in subparagraph (b) may be one-stop partners and carry out the responsibilities described in paragraph (1)(A).”

(B) ADDITIONAL PARTNERS.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

“(A) IN GENERAL.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

“(A) IN GENERAL.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

“(A) IN GENERAL.—An entity that carries out programs described in subparagraph (B)(xii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this title unless the Governor or the State board provides the notification described in clause (ii).

“(B) LOCAL MEMORANDUM OF UNDERSTANDING .

—

“(A) Section 121 (29 U.S.C. 2841) is amended by striking subsection (e).

(2) REDESIGNATION .

—

“Subtitle B of title I is amended—

(A) in section 134 (29 U.S.C. 2844), by redesignating subsection (c) as subsection (e); and

(B) by transferring that subsection (e) so that the subsection appears after subsection (d) of section 121.

(3) ONE-STOP DELIVERY SYSTEMS .

—

PARAGRAPH (1) OF SECTION 121(e) (29 U.S.C. 2841(e)) (as redesignated by paragraph (2)) is amended—

(A) in subparagraph (A), by striking “section (d)(2)” and inserting “section 134(d)(2)”;

(B) in subparagraph (B)—

(i) by striking subsection (d) and inserting “section 134(d)(2)”;

(ii) by striking “individual training accounts” and inserting “career scholarship accounts”;

(iii) by striking “subsection (d)(4)(G)” and inserting “subsection 134(d)(4)(G)”;

(C) in subparagraph (C), by striking “subsection (e)” and inserting “subsection 134(e)”;

(D) in subparagraph (D), by striking “subsection 121(b)” and inserting “subsection (b)”; and

(E) in subparagraph (E), by striking “information described in section 15 and inserting “data, information, and analysis described in section 15a”;

(4) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—Section 121 (29 U.S.C. 2841) is amended by adding at the end the following:

“(g) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—

“(1) IN GENERAL.—The State board, in consultation with chief local elected officials and one-stop boards, shall establish objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system.

“(2) CRITERIA.—The procedures and criteria developed with chief local elected officials and one-stop boards described in paragraph (1) shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the one-stop partners at the one-stop centers, consistent with the guidelines and guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards, for such partners’ participation under subsections (b)(1)(B) and subsection (i), respectively, and such other local area elected officials, including the Governor, for the partnership of one-stop partners and the State board to determine the degree of service coordination achieved by the one-stop delivery system as the State board determines to be appropriate.

“(3) LOCAL BOARDS.—Consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

“(h) FUNDING OF ONE-STOP INFRASTRUCTURE.

—

“(1) IN GENERAL.—

—

“(A) OPTIONS FOR INFRASTRUCTURE FUNDING .

—

(ii) LOCAL OPTIONS.—The local board, chief elected officials, and one-stop partners in a local area may choose to fund the costs of the infrastructure of one-stop centers through

“(I) methods described in the local memorandum of understanding, if the local board, chief elected officials, and one-stop partners agree to such methods; or

“(II) the State infrastructure funding mechanism described in paragraph (2).

“(B) GUIDANCE FOR INFRASTRUCTURE FUNDING METHODS .

—

IF, as of July 1, 2006, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of funding of the costs of the infrastructure of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

“(C) FAILING TO REACH AGREEMENT ON FUNDING METHODS.—If, as of July 1, 2006, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of funding of the costs of the infrastructure of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

“(D) PARTNER CONTRIBUTIONS.—

—

“(1) IN GENERAL.—Subject to clause (ii), the provisions determined under clause (i) of the Federal laws provided to the State and administered in the State described in the Federal laws authorizing the programs described in subsection (b)(1) and administered by one-stop partners for a fiscal year shall be provided to the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(ii).

“(2) DETERMINATION OF GOVERNOR.—

—

320. (A) DETERMINATION OF GOVERNOR.—

—

“(A) IN GENERAL.—Subject to subclause (II) and clause (iii), the Governor, after consultation with the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(ii), shall determine

“(i) the portions of funds to be provided to the State by one-stop partners for a fiscal year; and

“(ii) how the funds provided to the State by one-stop partners in a fiscal year shall be distributed pursuant to clause (i)(II) or (i) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner.
“(D) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.

“(DD) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.

“(II) SPECIAL RULE.—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with such authority, the Governor and the State Board shall develop a formula to be used by such partner to determine the appropriate allocation of such funds and noncash resources in local areas.

“SEC. 118. ELIGIBLE PROVIDERS OF TRAINING SERVICES.

“Section 122 (29 U.S.C. 2842) is amended to read as follows—

“(a) ELIGIBILITY.—

“(1) IN GENERAL.—The Governor, after consultation with the State board, shall establish procedures regarding the eligibility of providers of training services described in section 134(d)(4) (referred to in this section as ‘training services’) to receive funds provided under section 133(b) for the provision of training services.

“(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds provided under section 133(b) for the provision of training services, the provider shall be—

“(A) a postsecondary educational institution that—

“(1) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

“(2) provides programs that lead to an associate degree, baccalaureate degree, or industry-recognized certification.

“(B) an entity that carries out programs under the Act of August 16, 1997 (commonly known as the ‘National Apprenticeship Act’; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

“(C) another public or private provider of a program of training services.

“(3) INCLUSION IN LIST OF ELIGIBLE PROVIDERS.—A provider described in subparagraph (A) or (B) shall comply with the criteria and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d)(1) for so long as the provider is listed by the Department of Labor to carry out the programs described in paragraph (2)(B).

“(4) CRITERIA.—

“(A) IN GENERAL.—The criteria established by the Governor pursuant to subsection (a) shall take into account—

“(i) the performance of providers of training services with respect to performance measures and other matters for which information is required under paragraph (2) and other appropriate measures of performance outcomes for those participants receiving training services under this subtitle (taking into consideration the characteristics of the population served and relevant economic conditions);

“(ii) the need to ensure access to training services throughout the State, including any rural areas;

“(iii) the extent to which the information such providers are required to report to State agencies with respect to Federal and State programs (other than the program carried out under this subtitle), including one-stop partner programs;

“(iv) the extent practicable, encouraging the use of industry-recognized standards and certification; and

“(v) the extent to which the availability of the providers to offer programs that lead to a degree or an industry-recognized certification;
“(G) the ability to provide training services to hard-to-serve populations, including individuals with disabilities; and

“(H) such other factors as the Governor determines to be necessary to ensure that such providers meet the needs of local employers and participants;

“(iv) the informed choice of participants under chapter 5; and

“(v) that the collection of information required is not unduly burdensome or costly to providers.

“(2) INFORMATION.—The criteria established by the Governor shall include

“(A) information on the list of providers of training services who have been determined to meet the criteria established; and

“(B) information on the performance of the provider with respect to the performance measures established in section 128(b); and

“(C) information on the percentage of such participants who entered unsubsidized employment in an occupation related to the program.

“(3) RURAL.—The criteria established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

“(4) LOCAL CRITERIA.—A local board in the State may establish criteria in addition to the criteria established by the Governor, or may require higher levels of performance than required under the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) to provide the services in the local area involved.

“(5) INFORMATION TO ESTABLISH INITIAL ELIGIBILITY.—

“(A) IN GENERAL.—In an effort to provide the highest-quality training services and responsiveness to new and emerging industries, providers may seek initial eligibility under this section by providing information to the Governor. The criteria established by the Governor shall require that a provider who has not previously been an eligible provider of training services described under this section provide the information described in subparagraph (B).

“(B) INFORMATION.—The provider shall provide the information described in subparagraph (B) to the Governor and the local boards in a manner that will permit the Governor and the local boards to make a decision on the eligibility of providers described in subsection (d).

“(c) PROCEDURES.—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds pursuant to this chapter no later than December 31, 2006. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers of training services described in such subparagraph. The Governor may provide such services until December 31, 2006, or until such earlier date as the Governor determines to be appropriate.

“(d) INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.—In order to facilitate and assist participants in choosing on-the-job training and apprenticeship services under chapter 5 and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section in the State, accompanied by appropriate information, is provided to the on-the-job delivery system in the State. The appropriate list and related information shall consist of information provided by providers described in subparagraphs (A) and (C) of subsection (b) (including information on receipt of degrees and industry-recognized certifications, and costs of attendance, for participating activities under this subtitle in applicable programs) and such other information as the Secretary determines is appropriate. The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—The criteria and procedures established under this section shall provide the following:

“(A) INTENTIONALLY SUPPLYING INACCURATE INFORMATION.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services, or individual providing information on behalf of the provider, intentionally supplied inaccurate information under this section, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

“(B) REPAYMENT.—A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 during any noncompliance described in such subparagraph.

“(2) CONSTRUCTION.—Paragraph (1) shall be construed to provide remedies and penalties that supplement, not supplant, other civil and criminal remedies and penalties.

“(f) AGREEMENTS WITH OTHER STATES.—State agreements into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

“(g) OPPORTUNITY TO SUBMIT COMMENTS.—In establishing criteria, procedures, require-
"(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

"(iii) YOUTH ACTIVITIES FOR FARMWORKER ASSISTANCE PROGRAM. —For each fiscal year described in clause (i), the Secretary shall reserve the greater of $10,000,000 or 4 percent of the portion described in clause (i) for a fiscal year to provide assistance under section 167. For a fiscal year not described in clause (i), the Secretary shall reserve $10,000,000 of the amount appropriated under section 137(a) to provide assistance under section 167.

"(iv) YOUTH ACTIVITIES FOR NATIVE AMERICANS.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under subparagraph (i) or (ii), the Secretary may provide not more than 1 percent of such appropriated amount to provide youth activities under section 166 (relating to Native Americans).

"(b) OUTLIERING AREAS.—

"(1) IN GENERAL.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under subparagraph (A), the Secretary shall reserve not more than ¼ of 1 percent of the appropriated amount to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities.

"(2) AWARD BASIS.—The Secretary shall award grants pursuant to subparagraph (i) for a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(3) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

"(A) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

"(B) an assurance that, notwithstanding anything in this title, the Freely Associated State will use such assistance only for the direct provision of services; and

"(C) such other information and assurances as may require.

"(4) ADMINISTRATIVE COSTS.—The Secretary may provide no more than 5 percent of the funds made available for grants under subparagraph (A) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

"(C) STATES.—

"(1) IN GENERAL.—For the purposes of this section—

"(A) ALLOTMENT PERCENTAGE.—The term ‘allotment percentage’, used with respect to fiscal year 2005 and a subsequent fiscal year, means the percentage, as determined by the Governor to local areas in accordance with paragraph (3), of the total number of unemployed individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of unemployed individuals in all States; and


"(2) USE OF FUNDS.—With respect to—

"(A) a fiscal year for which the determination is made; and

"(B) a fiscal year for which the determination is not made; and

"(C) any fiscal year for which the determination is not made.

"(C) FREELY ASSOCIATED STATE. —The term ‘Freely Associated State’ means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(D) IN GENERAL.—For purposes of this section, the term ‘freely associated’ means a State that does not have an amount available for reallocation under paragraph (2) for the program year in which the determination under paragraph (2) is made.

"(2) USE OF FUNDS.—With respect to a fiscal year for which the determination is made; and

"(B) the accrued expenditures for which the determination is made; and

"(C) the accrued expenditures for which the determination is not made.

"(C) RESERVATION FOR STATEWIDE ACTIVITIES. —For the purposes of this subsection, a State means a State that—

"(1) has not reserved all the funds available to it under this section during the preceding fiscal year; and

"(2) has not reserved all the funds available to it under this section during the preceding fiscal year.

"(D) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect for the program year that begins after the date of enactment of this Act.

"(E) WITHIN STATE ALLOCATIONS.—

"(1) RESERVATION FOR STATEWIDE ACTIVITIES. —Section 126(a) (29 U.S.C. 2853(a)) is amended to read as follows:

"(A) RESERVATIONS FOR STATEWIDE ACTIVITIES.

"(1) IN GENERAL.—The Governor of a State shall reserve not more than 15 percent of the amount allotted to the State under section 127(b)(1)(C) and paragraph (1) of section 132(b) of such Act, of such program year for statewide workforce investment activities.

"(2) USE OF FUNDS.—Regardless of whether the reserved amounts were allotted under paragraph 127(b)(1)(C) or paragraph 132(b) of such Act for a program year for which the determination under paragraph 127(b)(1)(C) or paragraph 132(b) of such Act for a program year, the Governor may use the reserved amounts to carry out statewide workforce investment activities.

"(D) WITHIN STATE ALLOCATION.—Section 128(b) (29 U.S.C. 2853(b)) is amended to read as follows:

"(b) WITHIN STATE ALLOCATIONS.

"(1) IN GENERAL.—Of the amount allotted to the State under subsection (a), the Governor may—

"(A) a portion equal to not more than 80 percent of such amount shall be allocated by the Governor to local areas in accordance with paragraph (2); and

"(B) a portion equal to not more than 20 percent of such amount may be allocated by the Governor to local areas in accordance with paragraph (3).
(A) IN GENERAL.—Of the portion described in paragraph (1)(A), the Governor shall allocate—

(i) 33 1/3 percent on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all local areas in the State;

(ii) 33 1/3 percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and

(iii) 33 1/3 percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.

(B) MINIMUM AND MAXIMUM PERCENTAGES.—

(i) MINIMUM PERCENTAGE.—The Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is less than 90 percent of the allocation percentage of the local area for the preceding fiscal year.

(ii) MAXIMUM PERCENTAGE.—Subject to clause (i), the Governor shall ensure that no local area receives an allocation percentage under this paragraph for a fiscal year that is more than 130 percent of the allocation percentage of the local area for the preceding fiscal year.

(C) DEFINITIONS.—In this paragraph:

(1) ALLOCATION PERCENTAGE.—The term ‘allocation percentage’, used with respect to fiscal year 2005 or a subsequent fiscal year, means a percentage of the portion described in paragraph (1)(A) that is received by the local area involved through an allocation made under this paragraph for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the local area involved for fiscal year 2005.

(2) DISADVANTAGED YOUTH.—The term ‘disadvantaged youth’ means an individual who—

(i) is age 16 through 21;

(ii) is not a student or member of the Armed Forces; and

(iii) received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed any of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(3) YOUTH DISCRETIONARY ALLOCATION.—The Governor may allocate the portion described in paragraph (1)(B) to a local area where there are significant evidence of eligible individuals in consultation with the State board and local boards.

(4) LOCAL ADMINISTRATIVE COST LIMIT.—(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board involved for the administrative costs of carrying out local workforce investment management activities under this chapter or chapter 5.

(B) USE OF FUNDS.—Funds made available for administrative costs under an allocation paragraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).”.

(3) REALLOCATION.—

(A) AMENDMENT.—Section 128(c) (29 U.S.C. 2853(c)) is amended—

(i) in paragraph (1), by striking “paragraph” (2)(A) or (3) and inserting “subsection” (2)(A) or (3) and (B) and (ii) by striking paragraph (2) and inserting the following:

(2) AMOUNT.—The amount available for reallocation for a program year is the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made is less than the total amount of funds available to the local area under this section during such prior program year (including amounts allocated to the local area in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and

(B) the accrued expenditures during such prior program year.”;

(iii) by amending paragraph (3)—

(I) by striking “subsection (b)(3)” each place it appears and inserting “subsection (b)”;

(II) by striking “for the prior program year” the first place it appears and inserting “for the program year for which the determination is made”;

(III) by striking “such prior program year” and inserting “such program year”; and

(IV) by striking the last sentence; and

(iv) by striking paragraph (4) and inserting the following:

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.”.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect for the later of—

(i) the program year that begins after the date of enactment of this Act; or

(ii) program year 2006.

(4) YOUTH PARTICIPANT ELIGIBILITY.—

(A) ELIGIBILITY.—Section 129(a) (29 U.S.C. 2853(a)) is amended to read as follows:

(1) ELIGIBILITY.—(I) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

(II) A recipient of a secondary school diploma or its equivalent who is—

(aa) deficient in basic skills, including limited English proficiency;

(bb) a low-income individual; and

(cc) not a high school graduate.

(3) LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.—

(A) IN GENERAL.—For any program year, not more than 60 percent of the funds available for statewide activities under subsection (b), and not more than 60 percent of the funds available to local areas under subsection (b) for activities for in-school youth meeting the requirements of paragraph (1)(B).

(B) EXCEPTION.—A State that receives a minimum allotment under section 132(b)(1) in accordance with section 127(b)(1)(C)(iv) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(I) may increase the percentage described in subparagraph (A) for a local area in the State if—

(i) after an analysis of the eligible youth population in the local area, the State determines that the local area is unable to use at least 40 percent of the funds available for activities under subsection (b) or (c) to serve out-of-school youth due to a low number of out-of-school youth, or the availability of activities for in-school youth meeting the requirements of paragraph (1)(B).

(ii) the State submits to the Secretary, for the local area, a request including a proposed increased percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

(II) the request is approved by the Secretary.

(5) CONSISTENCY WITH COMPELLATORY SCHOOL ATTENDANCE LAWS.—In providing assistance under this section to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing such assistance shall be for the individual to attend school regularly.

(6) STATEWIDE ACTIVITIES.—Section 129(b) (29 U.S.C. 2853(b)) is amended to read as follows:

(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 129(a) and 133(a)(1) shall be used, regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or under paragraph (1)(B) or (2)(B) of section 132(b) for statewide activities, which may include—

(i) providing increased funding;

(ii) evaluations under section 136(e) of activities authorized under this chapter and
chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

(ii) research; and

(iii) demonstration projects;

(B) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated Hub); and

subsection (a) of section 116(c), to improve technical assistance to local areas, applicable to the development of exemplary program activities, the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), and the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State;

(D) operating a fiscal and management accountability information system under section 136(f);

(E) carrying out monitoring and oversight of activities carried out under this chapter, including the fiscal and management activities specified in subparagraph (C), and any other fiscal and management activities that may be needed to ensure that the funds are appropriately used and audited;

(F) providing additional assistance to local areas that have high concentrations of eligible youth;

(G) supporting the development of alternative programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter secondary education, enroll in postsecondary education, and advance training, and obtain career path employment;

(H) supporting the provision of core services described in section 134(d)(2) in the one-stop delivery system;

(i) supporting financial literacy, including—

(i) supporting the ability to create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;

(iii) increasing awareness of the availability and importance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect of credit reports and financial decisions may have on credit scores;

(iv) supporting the ability to ascertain fair and favorable credit terms;

(v) supporting the ability to avoid abusive, predatory, or deceptive credit offers and financial products;

(vi) supporting the ability to understand resources that are easily accessible and affordable to inform and educate an investor as to the investor’s rights and avenues of recourse when the investor believes the investor’s rights have been violated by unprofessional conduct and educate a potential investor as to the investor’s rights and avenues of recourse when the investor believes the investor’s rights have been violated by unprofessional conduct; and

(vii) increasing awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multiple financial transactions (such as the sending of remittances) or for another recognized credential, or for another recognized credential, or for another recognized credential, and the effect common financial decisions may have on them.

(ii) in clause (iv), by inserting ‘‘and advanced training’’ after ‘‘opportunities’’;

(iv) in clause (iii) (as redesignated by clause (i)), by inserting ‘‘that lead to the attainment of recognized credentials after ‘‘learning’’ and’’;

(v) by striking clause (v) (as redesignated by clause (i)) and inserting the following:

‘‘(v) effective connections to all employers, including small employers, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities and that lead to the attainment of recognized credentials after ‘‘learning’’ and’’;

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking ‘‘sec-

ondary school, including dropout prevention strategies and’’ and inserting ‘‘the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative credentials for individuals with disabilities) or for another recognized credential, including dropout prevention strategies’’;

(B) in subparagraph (B), by inserting ‘‘principal of a school;’’

(C) in subparagraph (F), by striking ‘‘dur-

ing nonschool hours’’;

(D) in subparagraph (I), by striking ‘‘and’’ at the end;

(E) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(F) by adding at the end following:

‘‘(K) on-the-job training opportunities;’’

’’(L) opportunities to acquire financial literacy skills;’’

’’(M) entrepreneurial skills training and microenterprise services; and

’’(N) information and counseling services for a range of jobs available in the local area, including technology jobs.’’;

(iii) in clause (v), by striking subclause (I), and all that follows and inserting ‘‘section 127(b)(1)(B),’’;

(iv) the following—

(2) LIMITATION.—Not more than 5 percent of the funds allotted to a State under section 127(b)(1)(C) shall be used by the State for administrative activities carried out under this subsection or section 134(a).

(3) PROHIBITION.—No funds described in this subsection shall be used to devise or implement education curricula for school systems in the State.

(i) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Section 129(c)(1) (29 U.S.C. 2854(c)(1)) is amended—

(A) in the matter that precedes subparagraph (A), by striking ‘‘paragraph (2)(A) or (5), and inserting—

(B) in subparagraph (B), by inserting ‘‘are directly linked to 1 or more of the performance measures relating to this chapter under section 136, and that’’ after ‘‘for each partici-

pant that’’;

and

(C) in subparagraph (C)—

(i) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively;

(ii) by inserting before clause (ii) (as redesignated by clause (i)) the following:

‘‘(i) activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential,’’;

(iii) in clause (ii) (as redesignated by clause (i)), by inserting ‘‘and advanced training’’ after ‘‘opportunities’’;

(iv) in clause (iii) (as redesignated by clause (i)), by inserting ‘‘instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 (29 U.S.C. 6311) after ‘‘academic’’; and

(ii) by inserting ‘‘that lead to the attain-

ment of recognized credentials after ‘‘learning’’ and’’;

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking ‘‘sec-

ondary school, including dropout prevention strategies and’’ and inserting ‘‘the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative credentials for individuals with disabilities) or for another recognized credential, including dropout prevention strategies’’;

(B) in subparagraph (B), by inserting ‘‘principal of a school;’’

(C) in subparagraph (F), by striking ‘‘dur-

ing nonschool hours’’;

(D) in subparagraph (I), by striking ‘‘and’’ at the end;

(E) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(F) by adding at the end following:

‘‘(K) on-the-job training opportunities;’’

’’(L) opportunities to acquire financial literacy skills;’’

’’(M) entrepreneurial skills training and microenterprise services; and

’’(N) information and counseling services for a range of jobs available in the local area, including technology jobs.’’;

(3) ADDITIONAL REQUIREMENTS.—Section 129(c)(3)(A) (29 U.S.C. 2854(c)(3)(A)) is amended in the matter preceding clause (i) by striking ‘‘or applicant who meets the mini-

mum income and other eligibility criteria to be considered an eligible youth’’.

(4) PRIORITY AND EXCEPTIONS.—Section 129(c) (29 U.S.C. 2854(c)) is amended by striking paragraphs (4) and (5).

(5) PROHIBITIONS AND LINKAGES.—Section 129(c) (29 U.S.C. 2854(c)), as amended by para-

graph (4), is further amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), re-

spectively;

and

(B) in paragraph (4) (as redesignated by subparagraph (A))—

(i) by striking subparagraph (B); and

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

(C) in paragraph (5) (as redesignated by subparagraph (A)), by striking ‘‘youth councils’’ and inserting ‘‘local boards’’.

SEC. 121. ADDITIONAL DISLOCATED WORKER EM-

PLOYMENT AND TRAINING ACTIVITIES.

(a) STATE ALLOTMENTS.—

(1) RESERVATIONS.—Section 132(a)(2)(A) (29 U.S.C. 2862(a)(2)(A)) is amended by striking ‘‘national emergency grants, other than those pursuant to section 134(a), and in-

serting ‘‘national dislocated worker grants, other than under paragraph (4) or (5) of subsection (a), subsection (e), and subsection (f)’’.

(2) ALLOTMENT AMONG STATES.—Section 132(b) (29 U.S.C. 2862(b)) is amended—

(A) in paragraph (1)(A)(ii), by striking ‘‘section 127(b)(1)(B),’’ and all that follows and inserting ‘‘section 127(b)(1)(B),’’;

(B) by striking paragraph (1)(B)(ii) and in-

serting the following—

‘‘(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

‘‘(I) 40 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemploy-

ment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

‘‘(II) 25 percent shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, com-

pared to the total number of such individuals in all States; and

‘‘(III) 35 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, except as described in clause (iii).’’;’’

(C) in paragraph (1)(B)—

(i) in clause (ii), by striking ‘‘section 116(a)(2)(B)’’ and inserting ‘‘section 116(a)(2)(A)(iii)’’;

(ii) in clause (iv)—

(I) in subclause (I)—

(aa) by striking ‘‘Subject to subclause (IV), the’’ and inserting ‘‘The’’; and

(bb) by striking ‘‘than the greater of’’ and all that follows and inserting ‘‘than an amount based on 90 percent of the allotment percentage of the State for the preceding fisc-

al year’’;

(II) in subclause (II), by striking ‘‘sub-

clauses (I), (III), and (IV)’’ and inserting ‘‘subclauses (I) and (III)’’;

(III) by striking subclause (IV); and

(iv) by inserting ‘‘subsection (a)’’ after ‘‘sub-

section (a), subsection (e), and subsection (f)’’.

(2) AMOUNT.—The amount available for reallocation for a program year for programs

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funded under subsection (b)(1)(B) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year (including amounts allotted to the State in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

(A) the total amount of funds available for reallocation under paragraph (2) for the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and

(B) the accrued expenditures from such total amount of funds available under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year.

(ii) by striking “under this section for such activities for the prior program year” and inserting “under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year”.

(C) in subclause (II), by striking “(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made;” and

(2) TRANSFER AUTHORITY.

(1) A REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area in the State—

(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), an amount based on the relative amount allocated to such local area under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under subsection (b)(2)(B) for such program year; and

(B) with respect to funds allocated under subsection (b)(2)(B), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made;

(ii) by striking “under this section for such activities for the prior program year” and inserting “under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year”.

(4) ELIGIBILITY.

(1) REQUIREMENTS. 

(A) in clause (i), by striking “45 percent” and inserting “65 percent”;

(B) in clause (II), by striking “33 percent” and inserting “25 percent”; and

(C) in clause (III), by striking “33 percent” and inserting “35 percent”.

(2) TRANSFER AUTHORITY. 

(1) Section 133(b)(4) (29 U.S.C. 2863(b)(4)) is amended by striking “20 percent” each place it appears and inserting “45 percent”.

(3) REQUIREMENTS. 

Clauses (i) and (ii) of section 133(b)(5)(B) (29 U.S.C. 2863(b)(5)(B)) are amended by striking “section 134(c)” and inserting “section 134(a)”.

(4) REALLOCATION. 

Section 133(c) (29 U.S.C. 2863(c)) is amended—

(A) in paragraph (1), by inserting “(and subsection (b)(2)(B) for dislocated worker employment and training activities,” after “activities”;

(B) by striking paragraph (2) and inserting the following:

“(2) AMOUNT.—The amount available for reallocation for a program year for programs funded under paragraphs (2)(A) or (3) of subsection (b) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training) for the program year for which the determination is made (including amounts available for reallocation under paragraph (2) for the program year for which the determination is made) is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year (including amounts allocated to the local area in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

(A) the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year for which the determination is made; and

(B) the accrued expenditures from such total amount of funds available under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and

(ii) by striking “under this section for such activities for the prior program year” and inserting “under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year”.

(5) EFFECTIVE DATE. 

The amendments made by paragraph (3) shall take effect for the last program year.
the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations; (vii) coordination of core services and management accountability system under section 136(c); and
(viii) activities—
(1) to improve coordination between workforce investment activities carried out within the State involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services;
(2) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 677); (3) to develop and disseminate workforce and labor market information;
(4) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will benefit offenders in reentering the workforce; and
(5) to promote financial literacy, including carrying out activities described in section 129(b)(1)(B) and 133(a)(1) and not used under paragraph (1)(B) or (2)(B) of section 132(b) may be used to carry out additional statewide employment and training activities, which may include—
(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent workers, training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneur training and support programs; utilization of effective business intermediaries, activities to improve linkages between workforce investment systems in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this Act; and
(ii) developing strategies for effectively serving hard-to-stere populations and for coordinating programs and services among one-stop partners.
(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
(iv) increasing or retaining the number of individuals training for and placed in nontraditional employment;
(v) activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;
(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop center in the State; and
(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 177 of the Social Security Act (42 U.S.C. 677);
(viii) activities—
(1) to improve coordination between workforce investment activities carried out within the State involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services;
(2) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 677) and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (42 U.S.C. 2001 et seq.); and
(3) to promote financial literacy, including carrying out activities described in section 129(b)(1)(B) and 133(a)(1) and not used under paragraph (1)(B) or (2)(B) of section 132(b) may be used to carry out additional statewide employment and training activities, which may include—
(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent workers, training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneur training and support programs; utilization of effective business intermediaries, activities to improve linkages between workforce investment systems in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this Act; and
(ii) developing strategies for effectively serving hard-to-stere populations and for coordinating programs and services among one-stop partners.
(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
(iv) increasing or retaining the number of individuals training for and placed in nontraditional employment;
(v) activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;
(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop center in the State; and
(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 177 of the Social Security Act (42 U.S.C. 677).
provide training services to adults and dislocated workers, respectively—

“(I) who, after an interview, evaluation, or assessment, and case management, have been identified as one-stop clients, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining employment; and

“(2) (I) by striking the phrase ‘or in paragraph (2)(A), and inserting ‘and in paragraph (2)(A)’; and

“(II) by striking the phrase ‘or paragraph (2)(B), and inserting ‘and in paragraph (2)(B)’; and

“(III) by inserting at the end the following:

“(x) English language acquisition and integrated training programs;”.

“(3) PERMISSIBLE ACTIVITIES.—Section 134(e) (29 U.S.C. 884(e)), as added by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and section 133(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 7121), is amended—

“(I) by striking ‘and’ after the semicolon;

“(II) in clause (i), by striking ‘or’ and inserting ‘and’; and

“(III) in clause (ii), by striking ‘or’ and inserting ‘and’);

“(4) INDIVIDUAL TRAINING ACCOUNTS

“(1) IN GENERAL.—

“(A) ACTIVITIES.—Funds allocated to a location for purposes of paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used for the one-stop delivery system involved—

“(I) to improve coordination between workforce investment activities described in this section, including subparagrap

“(dd) in subclause (III), by striking ‘special participant populations that face multiple barriers to employment, and inserting ‘hard-to-serve populations’;”.

“(ee) in subparagraph (E), by striking the period and inserting ‘; or’; and

“(ff) by adding at the end the following:—

“(IV) the local board determines that it would be most appropriate to award a contract to an institution of higher education in order to leverage of multiple providers of training services to individuals in high-demand occupations, if such contract does not limit customer choice.”;

“(IV) in clause (iv)—

“(aa) by redesigning subclause (IV) as subclause (V); and

“(bb) by inserting after subclause (III) the following:

“(IV) Individuals with disabilities.”.

“(3) PERMISSIBLE ACTIVITIES.—Section 134(e) (29 U.S.C. 884(e)), as added by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and section 133(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 7121), is amended—

“(I) by striking the matter preceding paragraph (2) and inserting the following:

“(ee) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES

“(1) IN GENERAL.—

“(A) ACTIVITIES.—Funds allocated to a local area for purposes of paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used for the one-stop delivery system involved—

“(i) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment;

“(ii) customized employment-related services to employers on a fee-for-service basis;

“(iii) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations;

“(iv) technical assistance and capacity building for serving individuals with disabilities in local areas, for one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, and the development of service and performance measures;”

“(v) employment and training assistance provided in coordination with child support enforcement activities of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

“(vi) activities to improve coordination between employment and training assistance, child care support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);”

“(vii) activities to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

“(viii) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access to the use of technology;”.

“(ix) activities—

“(I) to improve coordination between workforce investment activities carried out within the area involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services; and

“(II) to improve the services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers, for services described in this section, including subparagraph (B);”.

“(x) training programs for displaced homesteaders and for individuals training for non-traditional occupations, in conjunction with programs operated in the area;”

“(x) training programs for displaced homesteaders and for individuals training for non-traditional occupations, in conjunction with programs operated in the area;”

“(1) using a portion of monies allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area businesses, including—

“(I) may be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the provision of economic development and other resources as determined appropriate by the local board; and

“(II) may include—

“(aa) identifying and disseminating to business, educators, and job seekers, information related to the workforce, economic and community development needs, and opportunities of the local economy;

“(bb) development and delivery of innovative workforce investment services and strategies for area businesses, which may include, inter alia, industry skills alliances, career ladder, skills upgrading, skill standard development and certification, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

“(cc) participation in seminars and classes offered in partnership with relevant organizations focusing on the workforce-related needs of area employers and job seekers;

“(dd) training consulting, needs analysis, and brokering services for area businesses, including the organization and aggregation of training (which may be paid for with funds other than those provided under this title), for individual employers and coalitions of employers with similar interests, products, or workforce needs;

“(ee) assistance to area employers in the aversion of layoffs and in managing reductions in force in coordination with rapid response activities;

“(ff) the marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;

“(gg) information referral on concerns affecting local employers; and

“(hh) other business services and strategies designed to better engage employers in the workforce investment system more relevant to the workforce investment needs of area businesses, as determined by the local board to be consistent with the objectives of this title;”

“(xii) activities to adjust the self-sufficiency standards for local factors, or activities to adopt, calculate, or commission a self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

“(xiii) improved coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities;”

“(B) WORK SUPPORT ACTIVITIES FOR LOW-INCOME WORKERS.—

“(1) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and

“(2) the services and strategies provided under section 133(b) must be consistent with the plan local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and

“(3) the services and strategies provided under section 133(b) must be consistent with the plan...
funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved, work support activities to assist low-wage workers in retaining and enhancing employment. The one-stop partners shall coordinate the appropriate programs and resources of the partners with the activities provided under this subparagraph.

(ii) ACTIVITIES.—The activities described in clause (i) may include the provision of activities to this section through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate in the activities, such as the provision of services described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.

(B) in paragraph (2), by striking the matter preceding subparagraph (A) and inserting the following:

(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively; and

(C) add at the end the following:

(4) INCUMBENT WORKER TRAINING PROGRAMS.—

(A) IN GENERAL.—The local board may use up to 10 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through an incumbent worker training program carried out in accordance with this paragraph. The Governor or State board may make recommendations to the local board on the training of incumbent worker training with statewide impact.

(B) TRAINING ACTIVITIES.—The training program for incumbent workers carried out under this paragraph shall be carried out by the local board in conjunction with the employers or groups of employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment or abort layoffs.

(C) EMPLOYER SHARE REQUIRED.—

(I) IN GENERAL.—Employers participating in the training program carried out under this paragraph shall be required to pay the non-Federal share of the costs of providing the training to incumbent workers. The local board shall establish the non-Federal share of such costs, which may include in-kind contributions. The non-Federal share shall not be less than 10 percent of the costs, for employers with 50 or fewer employees; and

(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

(III) 50 percent of the costs, for employers with 100 or more employees.

(D) EXPLANATION OF EMPLOYER SHARE.—The non-Federal share paid by such an employer may include the amount of the wages paid by the employer to a worker while the worker is participating in a training program under this paragraph.

SEC. 122. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) STATE PERFORMANCE MEASURES.—

(1) INDICATORS OF PERFORMANCE.—Section 136(b)(2)(A) (29 U.S.C. 2871(b)(2)(A)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking ‘‘and by the States in meeting the national goals described in clause (v),’’; and

(ii) by striking clause (ii) and inserting the following:

(III) increases in earnings from unsubsidized employment; and; and

(iii) in subclause (IV), by striking ‘‘, or by participants’’ and all that follows through ‘‘lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency’’ after ‘‘demographic’’; and

(B) by striking clause (ii) and inserting the following:

(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—(I) enter into employment, education or advanced training, or military service; and

(II) school retention, and attainment of secondary school diplomas or their recognized equivalents and of postsecondary certificates; and

(III) literacy or numeracy gains.

(2) ADDITIONAL INDICATORS.—Section 136(b)(2)(C) (29 U.S.C. 2871(b)(2)(C)) is amended to read as follows:

(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities under this subtitle, including indicators identified in collaboration with State business and industry associations, with employers, and with local boards, to measure the performance of the workforce investment system in serving the workforce needs of business and industry in the State.

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking ‘‘shall take into account’’ and inserting ‘‘shall ensure that the levels involved are adjusted, using objective statistical methods, based on’’;

(2) by inserting ‘‘(characteristics such as unemployment rates and job losses or gains in particular industries) after ‘economic’;’’ and

(3) by inserting ‘‘(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency) after ‘demographic’’ after ‘‘(such as indicators of economic conditions);’’

(c) REFORM.—Section 136(d) (29 U.S.C. 2871(d)) is amended—

(1) in paragraph (1), by adding at the end the following: ‘‘In the case of a State or local area that chooses to expend funds for activities authorized under this title, the report also shall include the amount of such funds that have been expended and the percentage that such funds are of the funds available for activities under section 133;’’;

(2) in paragraph (2)—

(A) in subparagraph (E)—

(i) by striking ‘‘excluding participants who received only self-service and informational activities’’; and

(ii) by striking ‘‘and’’ after the semicolon;

(B) in subparagraph (F)—

(i) by inserting ‘‘noncustodial parents with child support obligations, homeless individuals, displaced homemakers,’’; and

(ii) by striking the period and inserting a semicolon; and

(C) by adding at the end the following: ‘‘(the number of participants who have received services, other than followup services, authorized under this title;’’;

(H) the number of participants who have received services, other than followup services, authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(4), and core services described in section 134(d)(4), respectively;

(J) the cost per participant for services authorized under this title; and

(K) the amount of adult and dislocated worker funds spent on—

(i) core, intensive, and training services, respectively; and

(ii) services provided under subsection (a)(1)(A) or (1)(A)(x) of section 134, if applicable;’’; and

(3) by adding at the end the following:

(4) DATA VALIDATION.—In preparing the report described in section 136(c)(3), the States shall establish procedures, consistent with guidelines issued by the Secretary, to
ensure that the information contained in the reports is valid and reliable.”.

(d) EVALUATION OF STATE PROGRAMS.—Section 136(e)(3) is amended by inserting “— including provision for documentation of 

consecutive years

performance for core indicators of perform-

ance with section 116(b)(2); or

(b) A DULT EMPLOYMENT AND TRAINING ACT-

OF 1973 (29 U.S.C. 2871) is amended by adding at the end the following:

“(f) integration of performance information 

systems and common measures for ac-

countability across workforce and education 

programs.”.

(3) By U.S.C. 2872(a)(3) is amended by striking “such sums as may be necessary for each of fiscal years 1999 through 2003” and inserting “such sums as may be necessary for each of fiscal years 2006 through 2011.”

Subtitle C—Job Corps

SEC. 131. JOB CORPS.

(a) ELIGIBILITY.—Section 143(3) (29 U.S.C. 2884(3)) is amended by adding at the end the following:

“(F) A child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).”;

(b) IMPLEMENTATION OF STANDARDS AND PROCEDURES.—Section 145(a)(3) (29 U.S.C. 2885(a)(3)) is amended—

(1) in subparagraph (B), by striking “and” and inserting “or” after the semicolon;

(2) in subparagraph (C), by striking the period and inserting “; and”;

(3) by adding at the end the following:

“(D) child welfare agencies that are responsible for children in foster care and children
eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).”;

(c) INDUSTRY COUNCILS.—Section 154(b) (29 U.S.C. 2894(b)) is amended—

(1) in paragraph (1)(A), by striking “local areas” and inserting “the local area”;

(2) by adding at the end the following:

“(3) EMPLOYERS OUTSIDE OF LOCAL AREA.— 

The industry council may include, or otherwise provide for consultation with, employ-
ers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.”

(4) SPECIAL RULE FOR SINGLE LOCAL AREA STATES.—In the case of a single local area
State designated under section 116(b), the in-
dustry council shall include a representative of the State Board.

(d) INDICATORS OF PERFORMANCE.—Section 159 (29 U.S.C. 2896) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) PERFORMANCE INDICATORS.—The Sec-
cretary shall annually establish expected lev-
els of performance for Job Corps centers and the Job Corps program relating to each of the core indicators of performance for youth activities identified in section 159(a)(2)(A)(i) and (iii).”;

(B) in paragraph (2), by striking “measures” each place it appears and inserting “indicators”; and

(C) in paragraph (3)—

(1) in the first sentence, by striking “core performance measures, as compared to the expected level of performance for each program and activity covered under section 131(b) and the Rehabilitation Act of 1973 (29 U.S.C. 2801 et seq.)” and inserting “performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure”;

and

(2) in the second sentence, by striking “measures” each place it appears and inserting “indicators”.

(e) AUTHORIZATION OF APPROPRIATIONS.— 


Subtitle D—National Programs

SEC. 141. NATIVE AMERICAN PROGRAMS.

(a) ADVISORY COUNCIL.—Section 166(h)(4)(C) (29 U.S.C. 2911(h)(4)(C)) is amended to read as follows:

“(C) DUTIES.—The Council shall advise the Secretary on the operation and administra-
tion of the programs assisted under this sec-
tion, including the selection of the individual appointed as head of the unit estab-
lished under paragraph (1).”.

U.S.C. 2872(c) is amended by striking “such sums as may be necessary for each of fiscal years 1999 through 2003” and inserting “such sums as may be necessary for each of fiscal years 2006 through 2011.”

The Council shall advise the Secretary on the operation and administra-
tion of the programs assisted under this section, including the selection of the individual appointed as head of the unit estab-
lished under paragraph (1).”.

The Secretary shall reserve 4 percent of the funds available for grants under this subsection to provide technical assistance to local areas to rep-
licate best practices or to develop integrated performance information systems and strengthen coordination with education and regional economic development.”

(b) USE OF CORE MEASURES IN OTHER DE-
PARTMENT OF LABOR PROGRAMS.—Section 136 (29 U.S.C. 2875) is amended by adding at the end the following:

“(d) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs car-
rried out under chapters 4 and 5, and the 

measures” and inserting “performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure”;

and

in paragraph (2), by striking “performance measures, as compared to the expected level of performance for each program and activity covered under section 131(b) and the Rehabilitation Act of 1973 (29 U.S.C. 2801 et seq.)” and inserting “performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure”;

and

by adding the following:

“(f) integration of performance information 

systems and common measures for ac-

countability across workforce and education 

programs.”.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

SEC. 125. IMPLEMENTATION OF STANDARDS AND PROCEDURES.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—Section 137(a) (29 U.S.C. 2872(a)) is amended by striking “such sums as may be necessary for each of fiscal years 1999 through 2003” and inserting “such sums as may be necessary for each of fiscal years 2006 through 2011”.

(b) ADULT EMPLOYMENT AND TRAINING ACT-

IVITIES.—Section 137(b) (29 U.S.C. 2872(b)) is amended by striking “such sums as may be necessary for each of fiscal years 1999 through 2003” and inserting “such sums as may be necessary for each of fiscal years 2006 through 2011”.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(c) (29
(b) Assistance to Unique Populations in Alaska and Hawaii.—Section 166(j) (29 U.S.C. 2911(j)) is amended to read as follows:

"(j) Assistance to Unique Populations in Alaska and Hawaii.—

"(1) In general.—Notwithstanding any other provision of law, the Secretary is authorized to extend federal support to the Cook Inlet Tribal Council, incorporated, and the University of Hawaii at Maui, for the unique populations who reside in Alaska or Hawaii, to improve training and workforce investment activities.

"(2) Authorization of Appropriations.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006.

"(c) Performance Indicators.—Section 166 (29 U.S.C. 2911) is amended by adding at the end the following:

"(C) Performance Indicators.—

"(1) Development of Indicators.—The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards which shall be applicable to programs under this section.

"(2) Special Considerations.—Such performance indicators and standards shall take into account,

"(A) the purpose of this section as described in subsection (a)(1);

"(B) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

"(C) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.

SEC. 142. Migrant and Seasonal Farmworker Programs. Section 167 (29 U.S.C. 2912) is amended—

"(1) in subsection (a), by striking "and inserting "and inserting 2 to 4;"

"(2) in subsection (b), by inserting "and deliverer" after "administer";

"(3) in subsection (c)—

"(A) in paragraph (1), by striking "2-year" and inserting "4-year";

"(B) in paragraph (2)—

"(i) in subparagraph (A), by inserting "describe the population to be served;

"(ii) in subparagraph (B), by inserting "including upgraded employment in agriculture before the semicolon;

"(iii) in subparagraph (C), by striking the period and inserting "a semicolon; and

(iv) at the end of the heading—

"(D) describe the availability and accessibility of local resources such as supportive services and training, education and education and training services, and how the resources can be made available to the population to be served; and

"(E) describe the plan for providing services under this section, including strategies and systems for outreach, case management, assessment, and delivery through one-stop delivery systems; and

"(2) in paragraph (3), by inserting paragraph (4) and inserting the following:

"(4) Competition.—The competition for grants made and contracts entered into under this section shall be conducted every 2 to 4 years.

"(3) in subsection (d), by striking "include" and all that follows and inserting "include outreach, job training, education and training assistance, literacy assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent supportive services), school dropout prevention activities, low-income services for those individuals placed in employment, self-employment and related business or micro-enterprise development or education as needed by eligible individuals and as identified pursuant to the plan required by paragraph (1);";

"(4) in subsection (e), by striking "take into account" the economic circumstances and demographic of eligible migrant and seasonal farmworker, means an individual described in subsection (c)

"(5) in subsection (f), by striking "are adjusted based on the economic and demographic barriers to employment of eligible migrant and seasonal farmworkers."

"(6) in subsection (g), by striking "(enacted by the Single Audit Act of 1984);"

"(7) in subsection (h)—

"(A) by striking paragraph (1) and inserting the following:

"(1) dependent.—The term 'dependent', used with respect to an eligible migrant or seasonal farmworker, means an individual who—

"(i) was claimed as a dependent on the farmworker's Federal income tax return for the previous year;

"(ii) is the spouse of the farmworker; or

"(iii) is a relationship as the farmworker's—

"(I) biological or legally adopted child, grandchild, or great-grandchild;

"(II) foster child;

"(III) stepchild;

"(IV) brother, sister, half-brother, half-sister, stepbrother, or stepsister;

"(V) parent, grandparent, or other direct ancestor (but not foster parent);

"(VI) stepparent or stepmother;

"(VII) uncle or aunt;

"(VIII) niece or nephew; or

"(IX) father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; and

"(ii) the receipt of over half of the individual's total support from the farmworker's family during the eligibility determination period for the farmworker; and

"(B) in paragraph (4)(A)—

"(i) by striking "disadvantaged person" and inserting "low-income individual";

"(ii) by inserting "who faces multiple barriers to self-sufficiency" before the semicolon;

"(3) by redesignating paragraph (4)(A) as subsection (1); and

"(4) in paragraph (7), by inserting before paragraph (8) the following:

"(7) Funding Allocation.—From the funds appropriated and made available to carry out this section, the Secretary shall award competitive grants to eligible entities for projects which will expand the base of knowledge relating to the provision of activities for youth.

"(C) a description of the State, local, and private resources that will be leveraged to provide the activities described under subsection (a) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in those activities;

"(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A) and (B); and

"(E) an assurance that the State board of each State in which the proposed activities are to be carried out had the opportunity to review the application, and including the comments, if any, of the affected State boards on the application, except that this subparagraph shall not apply to an eligible entity described in paragraph (2)(C).

"(3) Factors for Award.—

"(A) General.—In awarding grants under this subsection the Secretary shall consider—

"(i) the quality of the proposed activities; and

"(ii) the goals to be achieved; and

"(iii) the likelihood of successful implementation; and

"(iv) the extent to which the proposed activities are based on proven strategies or the extent to which the proposed activities will expand the base of knowledge relating to the provision of activities for eligible youth.

"(B) Preparation of Comprehensive Program.—From the funds appropriated and made available to carry out this section, the Secretary shall award grants to eligible entities for activities that will expand the base of knowledge relating to the provision of activities for eligible youth.

"(C) At the time of application, the Department shall provide guidance to interested eligible entities regarding the development and submission of comprehensive proposals for eligible activities under this section.

"(D) Eligible Activities.—The term "eligible activities" means—

"(i) activities described in paragraph (2)(C), (D), or (E) of this section; and

"(ii) any other Federal or non-Federal funds available for similar activities to the proposed activities, and the additional State, local, and private resources
that will be provided to carry out the proposed activities; 

(viii) the quality of the proposed activities in meeting the needs of the eligible youth; and 

(ix) the extent to which the proposed activities will expand on services provided under section 127.

(3) EQUAL GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographic areas.

(4) USE OF FUNDS.—

(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant to carry out activities that are designed to assist youth in acquiring the skills, credentials, and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129.

(B) ACTIVITIES.—The activities carried out pursuant to subparagraph (A) may include the following:

(i) Training and internships for out-of-school youth in sectors of the economy experiencing, or projected to experience, high growth.

(ii) Dropout prevention activities for in-school youth.

(iii) Activities designed to assist special youth populations, such as court-involved youth and youth with disabilities.

(iv) Activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

(v) Activities, including work experience, paid internships and entrepreneurial training, in areas where there is a migration of youth out of the areas.

(C) PARTICIPANT ELIGIBILITY.—Youth who are 16 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

(6) GRANT PERIOD.—The Secretary shall make a grant under this subsection for a period of 2 years and may renew the grant, if the eligible entity has performed successfully, for a period of not more than 3 succeeding years.

(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity to carry out activities described in section 129 for out-of-school youth; (v) career and academic advisement, including activities, compensation, and expected outcomes.

(C) an assurance that the participating employers in the proposed program are located in the local area to be served, and a demonstration of the commitment of the participating employers to hire individuals who—

(i) have successfully completed the program; or

(ii) continue to work in the program;

(D) demographic information about the targeted populations to be served by the proposed program, including gender, age, and race;

(E) a description of how the proposed program will address the barriers to employment of the targeted populations; and

(F) a description of the manner in which the eligible entity will evaluate the program; and

(G) a description of the ability of the eligible entity to carry out and expand the program after the expiration of the grant period.

(8) MATCHING FUNDS.—An eligible entity that receives a grant under this subsection shall use the grant for activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

(9) EVALUATIONS.—The Secretary may require that an eligible entity that receives a grant under this subsection carry out an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 127.

SEC. 145. TECHNICAL ASSISTANCE.

Section 170 (29 U.S.C. 2915) is amended—

(1) in subsection (a)(1), by—

(A) inserting “the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, the training of members of State boards and local boards, and other activities under this title,” after “localities,”; and

(B) striking “from carrying out activities” and all that follows through the period and inserting “to implement the amendments made by the Workforce Investment Act Amendments of 2005.”;

(2) in subsection (a)(2), by striking the end the following: “The Secretary shall also hire staff qualified to provide the assistance described in paragraph (1);”;

(3) in subsection (b)(2), by striking the last sentence and inserting “Such projects shall be administered by the Employment and Training Administration.,”; and

(4) by adding at the end the following: “The Secretary shall—

(c) BEST PRACTICES COORDINATION.—The Secretary shall—

(i) establish a system through which States may share information on best practices with regard to the operation of workforce investment activities under this Act;

(ii) evaluate and disseminate information regarding best practices and identify knowledge gaps; and

(iii) commission research under section 171(h) to address knowledge gaps identified under paragraph (2).”.

SEC. 146. DEMONSTRATION, PILOT, MULTI-SERVICE, AND MULTISTATE PROJECTS.

(a) DEMONSTRATION AND PILOT PROJECTS.—

Section 171(b) (29 U.S.C. 2916(b)) is amended—

(1) in paragraph (4)—

(A) by striking “Under a” and inserting “Consistent with the priorities specified in this title;”;

(B) by striking subparagraphs (A) through (E) and inserting the following:

“(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers for career ladder jobs and to provide information to such employers regarding the skills and occupations they require;

“(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this Act;” and

“(C) projects that focus on opportunities for employment in industries and sectors of

including an individual who is an individual with a disability, may be eligible to participate in activities under this subsection.

(6) SPECIAL RULE.—An eligible entity that receives a grant under this subsection shall coordinate activities with the designated State agency (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)) and non-Federal State agencies in the State to be served.

(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

(8) EVALUATIONS.—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 127.

(9) APPEAL.—

The asks for a grant application to the Secretary, an eligible entity may request a contestant the decision of the Secretary.

(10) ALTERNATE DELIVERY MECHANISMS.—

The Secretary may, for the purpose of facilitating access to programs and services, enter into agreements with entities under this Act.

SEC. 147. MULTISTATE PROJECTS.

(a) DEMONSTRATION AND PILOT PROJECTS.—

(b) by striking the end the following: “The Secretary shall—

(c) PROJECTS.—

The Secretary shall—

(d) CONFLICTS.—

The Secretary shall—

(e) EVALUATIONS.—

The Secretary shall—

(f) APPEAL.—

The appeals for a grant application to the Secretary, an eligible entity may request an contested the decision of the Secretary.

(g) ALTERNATE DELIVERY MECHANISMS.—

The Secretary may, for the purpose of facilitating access to programs and services, enter into agreements with entities under this Act.

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industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency; (D) computerized, individualized, self-paced workforce investment services targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment creation, retention, and maintenance of high-tech equipment that is used in integrated systems technology;

“(e) projects carried out by States and local entities utilizing innovative approaches tied to delivering employment-related services;”;

(C) in subparagraph (G), by striking “and” after paragraph (3);

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

“(I) projects that provide retention grants for individuals in at-risk industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency; (J) projects that provide advanced training that meet the skill requirements of and disseminate credentials and skill certifications to the workforce investment system, including the economic benefit received by the Federal Government from the employment and retention of the individual, including the economic benefit from tax revenue and decreased public subsidies; (K) projects that provide comprehensive educational services, training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations;”; and

(2) in paragraph—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(3) ELIGIBLE ENTITIES.

(A) not more than 8 national certifications, regions, pilot projects, or consortia consisting of 2 or more eligible entities that meet the requirements described in subclause (I);

(B) projects that provide comprehensive educational services, training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations;”; and

(2) in paragraph—

(A) by striking subparagraph (B); and

(B) by redesigning subparagraph (C) as subparagraph (B).

(b) ADMINISTRATION.

(Sec. 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended by adding at the end the following:

“(J) the use of credentials by businesses to achieve goals for workforce skill upgrading and greater operating efficiency.

(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study conducted pursuant to subclause (I). Such report may include any recommendations that the Secretary determines are appropriate to include in such report relating to promoting the acquisition of industry-based certifications and credentials, and the appropriate role of the Department of Labor and the workforce investment system in supporting the needs of business and individuals with respect to such certification and credentials.

(3) ELIGIBLE ENTITIES.

(A) not more than 8 national certifications, regions, pilot projects, or consortia consisting of 2 or more eligible entities that meet the requirements described in subclause (I); and

(B) projects that provide comprehensive educational services, training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations;”.; and

(ii) STUDY OF INDUSTRY-BASED CERTIFICATIONS.

In accordance with this subsection the term "eligible entity" means an entity that shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

(A) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

(B) An advanced technology education center.

(iii) A local board.
(iv) A representative of a business in a target industry for the certification involved.

(v) A representative of an industry association, labor organization, or community development organization.

(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industries on workforce investment activities that is consistent with the objectives of this title.

(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(5) CRITERIA.—The Secretary shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry and other sources. Such matching funds may be provided in cash or in kind.

(7) AUTHORIZED ACTIVITIES.—

(A) IN GENERAL.—An eligible entity that receives funding under this subsection shall use the funds made available through the grant—

(i) to facilitate the establishment of certification requirements for a certification described in paragraph (1) for an industry;

(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

(iii) to collect and analyze data related to the program’s success and, and to identify best practices (consistent with paragraph (8)) that may be used by State and local workforce investment boards in the future.

(B) BASIS FOR REQUIREMENTS.—The certification requirements established under the grant shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation’s Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive the certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and

(ii) the certification program is offered at the completion of the training and education program.

(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

(F) CONSULTATION.—The Secretary shall consult with the Director of the National Science Foundation to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation’s Advanced Technological Education Program.

(G) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

(i) establish the core components of a model high-technology certification program;

(ii) establish guidelines to assure development of a uniform set of standards and policies for such programs;

(iii) prepare and submit a report on the pilot projects to the Senate Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

(iv) make available to the public both the data and the report.

(H) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $30,000,000 for fiscal year 2006 to carry out this subsection.

(I) INTEGRATED WORKFORCE PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—Section 171 (29 U.S.C. 2916), as amended by subsection (d), is further amended by adding the following:

(1) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

(I) DEFINITIONS.—In this subsection—

(A) INTEGRATED WORKFORCE TRAINING.—The term ‘integrated workforce training’ means training that integrates occupational skills training with language acquisition.

(B) SECERTY.—The term ‘Secretary’ means the Secretary of Labor in consultation with the Secretary of Education.

(2) DEMONSTRATION PROJECT.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (11), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

(3) GRANTS.—

(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make awards to at least 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training program to be assisted shall—

(i) be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

(ii) providing workforce programs with training and English language instruction.

(B) APPLICATIONS.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) contain information, including capability statements, that demonstrates that the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

(ii) include an assurance that the program to be assisted shall—

(I) establish criteria for awarding grants under this subsection;

(II) ensure that the framework established under subsection (A) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

(IV) establish identifiable measures so that the progress of the employee and employer and the relative success of the program can be evaluated and best practices identified.

(C) CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

(D) INTEGRATED WORKFORCE PROGRAMS.—

(1) PROGRAM COMPONENTS.—

(i) REQUIRED COMPONENTS.—Each program that receives funding under this subsection shall—

(I) test an individual’s English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

(II) combine training specific to a particular occupation or occupational cluster, with

(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

(bb) basic skills instruction; and

(cc) supportive services.

(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

(IV) require matching or in-kind resources from private and nonprofit entities.

(2) PERMISSIBLE COMPONENTS.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

(B) GOAL.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient workers, and place eligible workers in employment in, growing industries with identifiable career ladder paths.
"(C) PROGRAM TYPES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:"

"(i) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low earnings;

"(ii) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subsection as employment that provides at least 75 percent of the median wage in the local area.

"(ii) A program that—

"(i) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

"(ii) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services that include subsidized employment, that will be based, and how the grant will help individuals; and

"(ii) A program that—

"(i) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(ii) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

"(iv) A program that includes funds from private and nonprofit entities.

"(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to collect comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels, and to assess how different curricula work for limited English proficient populations.

"(iii) A program that—

"(i) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(ii) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services that include subsidized employment, that will be based, and how the grant will help individuals; and

"(iii) A program that—

"(i) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(ii) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services that include subsidized employment, that will be based, and how the grant will help individuals; and

"(iv) A program that includes funds from private and nonprofit entities.

"(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to collect comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels, and to assess how different curricula work for limited English proficient populations.

"(iii) A program that—

"(i) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(ii) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services that include subsidized employment, that will be based, and how the grant will help individuals; and

"(iv) A program that includes funds from private and nonprofit entities.

"(2) DEMONSTRATION PROJECT.—In addition to the demonstration projects authorized under subsection (b), the Secretary may establish and implement a national demonstration project designed—

"(A) to develop local innovative solutions to workforce challenges facing high-growth, high-skilled industries; and

"(B) to increase employment opportunities for workers in high-growth, high-demand occupations by establishing partnerships with workforce investment systems, and businesses in high-growth, high-skilled industries or sectors.

"(3) GRANTS.—In carrying out the national demonstration project authorized under this subsection, the Secretary shall award grants, on a competitive basis, for 2, 3, or 4 years, in accordance with generally applicable Federal requirements, to eligible entities to carry out activities authorized under this subsection.

"(i) high-growth, high-demand industries;

"(ii) the workforce issues faced by such industries; and

"(iii) potential participants in programs funded under this subsection;

"(D) a description of the qualified industry for which the training will occur, the availability of competencies on which the training will be based, and how the grant will help workers acquire the competencies and skills necessary for employment;

"(E) a description of the involvement of the local board and businesses, including small businesses, in the geographic area where the proposed grant will be implemented;

"(F) performance measures for the grant, including the expected number of individuals to be trained in a qualified industry, the employment and retention rates for such individuals in a qualified industry, and initial earnings and earnings increases for such individuals;

"(G) a description of how the activities funded by the grant will be coordinated with activities being provided through one-stop centers in the local area; and

"(H) a description of the local or private resources that will—

"(i) support the activities carried out under this subsection; and

"(ii) enable the entity to carry out and expand such activities after the expiration of the grant.

"(3) FACTORS FOR AWARD OF GRANT.—

"(A) IN GENERAL.—In awarding grants under this subsection, the Secretary shall consider—

"(i) the extent of public and private collaboration, including existing partnerships among qualified industries, the eligible entity, and the public workforce investment system;

"(ii) the extent to which the grant will provide job seekers with high-quality training for employment in high-growth, high-demand occupations;

"(iii) the extent to which the grant will expand the eligible entity and local one-stop centers' capacity to be demand-driven and responsive to local economic needs;

"(iv) the extent to which the grant will expand the eligible entity and local one-stop centers' capacity to be demand-driven and responsive to local economic needs;

"(v) the extent to which the grant will expand the eligible entity and local one-stop centers' capacity to be demand-driven and responsive to local economic needs; and

"(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall consider—

"(i) the extent to which local or private resources will be made available to support the activities carried out under this subsection, taking into account the resources of the eligible entity and the entity's partners; and
“(ii) the ability of an eligible entity to continue to carry out and expand such activities after the expiration of the grant.

“(C) DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants across diverse industries and geographic areas.

“(D) USE OF FUNDS.—An eligible entity that receives a grant under this subsection—

“(i) the development by the community college or community-based organization identified in the application, and, if applicable, other representatives of qualified industries, of rigorous training and education programs leading to an industry-recognized credential or degree and employment in the qualified industry; and

“(ii) training of adults, incumbent workers, dislocated workers, or out-of-school youth in the skills and competencies needed to obtain or upgrade employment in a qualified industry identified in the eligible entity’s application; and

“(B) may use the grant funds for—

“(i) disseminating information on training availability and occupations in qualified industries through the one-stop delivery system to prospective participants, businesses, business intermediaries, and community-based organizations in the region, including training available through the grant;

“(ii) referring individuals trained under the grant for employment in qualified industries;

“(iii) enhancing integration of community colleges, training and education with businesses, and the one-stop system to meet the training needs of qualified industries for new and incumbent workers;

“(iv) providing training and relevant job skills to small business owners or operators to facilitate small business development in high-growth industries; or

“(v) expanding or creating programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant skill training in high-growth, high-demand industries.

“(B) PERFORMING NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or in-kind resources, of the costs of activities carried out under a grant awarded under this subsection.

“(C) PERFORMANCE ACCOUNTABILITY AND EVALUATION.—

“(A) PERFORMANCE ACCOUNTABILITY.—The Secretary shall require an eligible entity that receives a grant under this subsection to submit an interim and final report to the Secretary on the impact on business partners and employment outcomes obtained by individuals receiving training under this subsection using the techniques described in section 172(c).”

SEC. 147. NATIONAL DISLOTTED WORKER GRANTS.

(a) IN GENERAL.—Section 173 (29 U.S.C. 2913) is amended—

(1) by striking the heading and inserting the following:

“SEC. 173. NATIONAL DISLOTTED WORKER GRANTS;”

and

(2) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

“(a) IN GENERAL.—The Secretary is authorized to award national dislocated worker grants—

(B) in paragraph (1), by striking “subsection (c)” and inserting “subsection (b);”

(C) in paragraph (2) by striking “and” after the semicolon; and

(D) by striking paragraph (4) and inserting the following:

“(4) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (e), including providing assistance to eligible individuals;”

“(b) in paragraph (1), by striking “subsection (a)” and inserting “subsection (b)(1)(B)” to carry out subsection (f), including providing assistance to eligible individuals;”

“(c) to provide additional assistance to a State board or local board where a higher than average demand for employment and training activities for dislocated workers, as described in section 101(1)(E), of members of the Armed Forces, described in subsection (b)(2)(A)(iv), exceeds State and local resources for providing such services, and where such programs are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs, and

“(d) to provide assistance to a State for statewide or local use in order to—

“(A) address cases in which there have been worker dislocations across multiple sectors, across multiple businesses within a sector, or across multiple local areas, and such workers remain dislocated;

“(B) meet emerging economic development needs; and

“(C) train eligible individuals who are dislocated workers described in subparagraph (A).

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 45 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such a grant not later than 10 days after the award of the grant.

(b) ADMINISTRATION AND PILOT PROJECTS, EVALUATIONS, INCENTIVE GRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172, section 136(i), and section 503 such sums as may be necessary for each of fiscal years 2006 through 2011.

“(2) RESERVATION.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall, for each of the fiscal years 2006 through 2011, reserve not less than 25 percent for carrying out section 503.

(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

(1) IN GENERAL.—Section 174(c) (29 U.S.C. 2914(c)) is amended—

(1)(A) by striking paragraphs (1) and (2), and

(3)(B) by striking “subsection (a)(2)(A)” and inserting “subsection (b)(1)(B);”

and

(2) in paragraph (4)(B), by striking “subsection (g)” and inserting “subsection (f);”

and

(3) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking “paragraph (4)(A)” and inserting “paragraph (4)(A)”;

(B) in paragraph (2), by striking “subsection (g)” and inserting “subsection (f);”

and

(C) in paragraph (3)(B), by striking “subsection (a)(4)(A)” and inserting “subsection (a)(4)(B)”;

and

(4) in subsection (a)(5) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking “paragraph (4)(B)” and inserting “paragraph (5);”

and

(B) in paragraph (4)(B), by striking “subsection (g)” and inserting “subsection (f);”

and

(C) in subsection (a)(4)(B) and inserting “subsection (a)(5).”

SEC. 148. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.


(b) RESERVATIONS.—Section 174(b) (29 U.S.C. 2914(b)) is amended to read as follows:

“SEC. 174. RESERVATIONS.

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172, section 136(i), and section 503 such sums as may be necessary for each of fiscal years 2006 through 2011.

“(2) RESERVATION.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall, for each of the fiscal years 2006 through 2011, reserve not less than 25 percent for carrying out section 503.

(SEC. E—Administration

SEC. 151. REQUIREMENTS AND RESTRICTIONS.

Section 181(e) (29 U.S.C. 2931(e)) is amended by striking “economic development activity” and inserting “economic development activity.”

SEC. 152. REPORTS.

Section 185(c) (29 U.S.C. 2935(c)) is amended—
(1) in paragraph (2), by striking “and” after the semicolon;
(2) in paragraph (3), by striking the period and inserting “; and”;
(3) by adding at the end the following: “(4) shall have the option to submit or disseminate electronically any reports, records, plans, or any other data that are required to be collected or disseminated under this title.”.

SEC. 153. ADMINISTRATIVE PROVISIONS. (a) ANNUAL REPORT.—Section 189(d) (29 U.S.C. 2939 note) is amended—
(1) in paragraph (3), by striking “and” after the semicolon;
(2) by redesignating paragraph (4) as paragraph (3); and
(3) by inserting after paragraph (3) the following:
“(4) the negotiated levels of performance of the States, the States’ requests for adjustments of such levels, and the adjustments of such levels that are made; and”.
(b) AVAILABILITY.—Section 189(g)(2) (29 U.S.C. 2939(g)(2)) is amended, in the first sentence—
(1) by striking “Funds” and inserting “Except as otherwise provided in this paragraph, funds”;
and
(2) by striking “each State receiving” and inserting “each recipient of”.
(c) GENERAL WAIVERS.—Section 189(i)(4) (29 U.S.C. 2939(i)(4)) is amended—
(1) in subparagraph (A)(i), by inserting “the funding of infrastructure costs for one-stop centers, Section 481(a) of the Wagner-Peyser Act (29 U.S.C. 2931 et seq.), or under the Wagner-Peyser Act (29 U.S.C. 2931 et seq.)”;
(2) in subparagraph (C), by striking “90” and inserting “60”;
and
(3) by adding at the end the following: “(D) The Secretary shall expedite requests for waivers of statutory or regulatory requirements that have been approved for a State pursuant to subparagraph (B), if the requirements of this paragraph have been satisfied.”.

“(E) SPECIAL RULE.—With respect to any State that has a waiver under this paragraph relating to the transfer of authority under section 133(b)(4), and has the waiver in effect on the date of enactment of the Workforce Investment Act Amendments of 2005 or subsequently receives such a waiver, the waiver shall continue to apply for so long as the State meets or exceeds State performance requirements relating to the indicators described in section 136(b)(3).”

SEC. 154. USE OF CERTAIN REAL PROPERTY. Section 193 (29 U.S.C. 2943) is amended to read as follows:

“SEC. 155. GENERAL PROGRAM REQUIREMENTS. Section 195 (29 U.S.C. 2945) is amended by adding at the end the following:
“(15) Funds provided under this title shall not be used to establish or operate fee-for-service enterprises that are not affiliated with the one-stop service delivery systems described in section 121(e) and that compete with programs with such affiliation as defined in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).”.

SEC. 156. TABLE OF CONTENTS. Section 1(b) (29 U.S.C. 9201 note) is amended—
(1) by striking the item relating to section 106 and inserting the following: “Sec. 106. Purposes.”;
(2) by striking the item relating to section 123 and inserting the following: “Sec. 123. Eligible providers of youth activities.”;
(3) by striking the item relating to section 169 and inserting the following: “Sec. 169. Youth challenge grants.”;
(4) by striking the item relating to section 173 and inserting the following: “Sec. 173. National dislocated worker grants.”;
(5) by striking the item relating to section 193 and inserting the following: “Sec. 193. Transfer of Federal equity in State employment security agency real property to the States.”;
(6) by inserting after the item relating to section 243 the following: “Sec. 244. Integrated English literacy and civics education.”;
and
(7) by striking the item relating to section 502.

Subtitle F—Incentive Grants

SEC. 161. INCENTIVE GRANTS. Section 503 (29 U.S.C. 9273) is amended—
(1) by striking subsection (a) and inserting the following:
“(a) In General.—
“(1) TIMELINE.—
“(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.
“(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interim objectives of the State.
“(2) BASIS.—The Secretary shall award the grants on the basis that States—
“(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, including—
“(1) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;
“(2) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, including—
“(1) activities that support the development of a statewide integrated performance information system that includes common measures; and
“(2) activities that align management information systems with integrated performance information systems across education and workforce programs;
“(3) activities that support work investment programs with other Federal and State programs related to the activities under this Act;
“(4) activities that support the development of a statewide integrated performance information system with common measures; and
“(5) activities that align management information systems with integrated performance information systems across education and workforce programs; or
“(6) activities that support local workforce investment boards or areas in improving performance and program coordination.
“(B) WAIVER.—For States that have developed and implemented a statewide integrated performance information system with common measures, as described in paragraph (3)(E), for federally funded workforce and education programs, the Secretary may waive specified Federal reporting requirements for such State to be in compliance with reporting requirements under this Act and other workforce and education programs as the Secretary has authority or agreement to waive.
”
“(5) Technical assistance.—The Secretary shall reserve 4 percent of the funds available for grants under this section to provide technical assistance to States to replicate best practices and to develop integrated performance information systems and strengthen coordination with education and economic development; and

(3) in subsection (d).

Subtitle G—Conforming Amendments

SEC. 171. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 512(a) of the Older Americans Act of 1965 (42 U.S.C. 3065(a)) is amended by striking “(B)(v)” and inserting “(B)(iv)”.

(b) ADULT EDUCATION AND FAMILY LITERACY ACT.—Section 212(b)(3)(A)(vi) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)(3)(A)(vi)) is amended by striking “the representatives described in section 136(1)(c)” and inserting “representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, and participants (as defined in section 101), with expertise regarding workforce investment policies and workforce investment activities (as defined in section 101)”.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

SEC. 201. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the “Adult Education and Family Literacy Act Amendments of 2005”.

(b) PURPOSE.—Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) is amended—

(1) in paragraph (2), by striking “and” after the semicolon;

(2) in paragraph (3), by striking “education,” and inserting “education and in the transition to postsecondary education,”; and

(3) by adding at the end the following:

“(4) assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, the American constitutional system, and the responsibilities of citizenship.”

SEC. 202. DEFINITIONS.

Section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “for services or instruction below the postsecondary level” and inserting “academic instruction and education services below the postsecondary level that increase an individual’s ability to read, write, and speak in English and perform mathematics”; and

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

“(i) are basic skills deficient as defined in section 101(b);”

(2) in paragraph (2), by striking “activities described in section 212(b)(i)” and inserting “programs and services which include reading, writing, speaking, or mathematics skills, workplace literacy activities, family literacy activities, English language acquisition activities, or other activities necessary for the attainment of a secondary school diploma or its State recognized equivalent”; and

(3) in subparagraph (B), by striking “in subparagraph (B)” and inserting “(i) the amount of the allotment such agency receives under this section that is less than 90 percent of the allotment the eligible agency would have received for the preceding fiscal year under this section.”

“(2) 100 PERCENT ALLOTMENT.—Notwithstanding paragraphs (3) and subject to subsection (d), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency would have received for the preceding fiscal year under this section.

“(3) RATABLE REDUCTION.—If any fiscal year allotment is not available, for any fiscal year the amount described in subparagraph (e), an eligible agency that receives only an initial allotment under subsection (c)(1) and no additional allotment under subsection (c)(2) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

“(4) ADDITIONAL ASSISTANCE.—

(A) IN GENERAL.—From amounts reserved under subparagraph (a)(2), the Secretary shall make grants to eligible agencies, as described in subparagraph (B), to enable such agencies to provide activities authorized under chapter 2.

(B) ELIGIBILITY.—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

“(C) AMOUNT OF GRANT.—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between

(i) the amount of the allotment such agency would have received for the fiscal

“(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $10,000,000;

“(2) shall reserve 1.5 percent to carry out section 248; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and

“(4) shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 241.”;

(2) in subsection (c)(2)—

(A) by inserting “and the sole agency responsible for administering supervising policy for adult education and literacy in the Republic of Palau after an initial allotment under paragraph (1)”;

(B) by inserting “or served by the agency for the Republic of Palau” after “by the eligible agency”; and

(C) by striking “States and outlying areas” and inserting “States, outlying areas, and the Republic of Palau”;

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “the Republic of the Marshall Islands, the Federated States of Micronesia,” and “;”

(ii) by striking “the Republic of the Marshall Islands, the Federated States of Micronesia,” and inserting “;” and

(B) in paragraph (3)—

(i) by striking “the Republic of the Marshall Islands, the Federated States of Micronesia,” and “;”

(ii) by striking “2001” and inserting “2007”; and

(iii) by striking subsection (f) and inserting the following:

“(F) HOLD-HARMLESS PROVISIONS.—

“(1) IN GENERAL.—Notwithstanding subsection (e) and subject to paragraph (4), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this section.

“(2) 100 PERCENT ALLOTMENT.—Notwithstanding paragraphs (3) and subject to subsection (d), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency would have received for the preceding fiscal year under this section.

“(3) RATABLE REDUCTION.—If any fiscal year allotment is not available, for any fiscal year the amount described in subparagraph (e), an eligible agency that receives only an initial allotment under subsection (c)(1) and no additional allotment under subsection (c)(2) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

“(4) ADDITIONAL ASSISTANCE.—

(A) IN GENERAL.—From amounts reserved under subparagraph (a)(2), the Secretary shall make grants to eligible agencies, as described in subparagraph (B), to enable such agencies to provide activities authorized under chapter 2.

(B) ELIGIBILITY.—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

“(C) AMOUNT OF GRANT.—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between

(i) the amount of the allotment such agency would have received for the fiscal

“(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $10,000,000;

“(2) shall reserve 1.5 percent to carry out section 248; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and

“(4) shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 241.”;
year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year; and
(ii) the amount of the allotment such agencies receives under this section for the fiscal year.

SEC. 206. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 212 of the Adult Education and Family Literacy Act (20 U.S.C. 9222) is amended—
(1) in subsection (b)—
(A) in paragraph (1)(A)(ii), by striking “an additional indicators of performance (if any)” and inserting “the employment performance indicators”;
(B) by striking paragraph (2) and inserting the following:

“(2) INDICATORS OF PERFORMANCE.—

(A) Core indicators of performance.—An eligible agency shall identify in the State plan individual academic performance indicators that include, at a minimum, the following:

(i) Measurable improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, and English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of the voluntary education or other training programs.

(iii) Completion of a secondary school diploma, its recognized equivalent, or a recognized professional standard for individuals with disabilities.

(B) Employment performance indicators.—

(i) In general.—An eligible agency shall identify in the State plan individual participant employment performance indicators that include, at a minimum, the following:

(I) Entry into unsubsidized employment.

(II) Retention in unsubsidized employment 6 months after entry into the employment.

(III) Increases in earnings from unsubsidized employment.

(ii) Data collection.—The State workforce investment board shall assist the eligible agency in obtaining and using quarterly wage records to collect data for each of the indicators described in clause (i), consistent with applicable Federal and State privacy laws.

(C) Indicators for Workplace Literacy Programs.—Special accountability measures may be established for workplace literacy programs; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(D) in clause (i), by striking “in performance” and inserting “the agency’s performance outcomes in an objective, quantifiable, and measurable form.”;

(E) in clause (ii), by striking “3 programs years” and inserting “2 program years”;

(F) in clause (iii), by striking “first 3 years” and inserting “first 2 years”.

(2) in clause (ii), by striking “first 3 program years” and inserting “first 2 program years”;

(V) in clause (v), by striking “and training” and inserting “and training”;

(VI) in clause (v), by striking “to the fourth” and inserting “to the third”;

(VII) in clause (v), by striking “fourth and fifth” and inserting “third and fourth”;

(VIII) in clause (vi), by striking “(II)” and inserting “(II)”; and

(ii) in subparagraph (B)—

(1) in clause (II), by striking “measurable improvements in” and inserting “levels of employment performance”;

(II) by striking “may” and inserting “shall”;

(III) by striking “additional” and inserting “employment performance”; and

(iii) by adding at the end the following:

“(C) ALTERNATIVE ASSESSMENT SYSTEMS.—Eligible agencies may approve the use of assessment systems that are not commercially available standardized systems if such systems meet the standards established by the Joint Committee on Standards for Educational and Psychological Testing issued by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “the Governor, the State legislature, and the State workforce investment board” and

(ii) by striking “including” and all that follows through the period and inserting “including the following:

(A) Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance, and employment performance indicators.

(B) Information on the number or percentage of qualifying adults (as defined in section 211(d)) who are participants in adult education programs under this subtitle and making satisfactory progress toward 1 or more of the core indicators described in paragraph (1).

(C) The number and type of each eligible provider that receives funding under such grant.

(D) The number of enrollees 16 to 18 years of age who entered adult education not later than 1 year after participating in secondary school education.”;

(B) in paragraph (2)(A), by inserting “eligible provider is measurable” and

(C) by adding at the end the following:

“(3) DATA ACCESS.—The report made available under paragraph (2) shall indicate which eligible agencies did not have access to State unemployment insurance wage data in measuring employment performance indicators.”;

(3) by adding at the end the following:

“(d) PROGRAM IMPROVEMENT.—

(1) IN GENERAL.—If the Secretary determines that an eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A) for any program year, the eligible agency shall—

(A) work with the Secretary to develop and implement a program improvement plan for the 2 program years succeeding the program year in which the eligible agency did not meet its adjusted levels of performance; and

(B) revise its State plan under section 224, if necessary, to reflect the changes agreed to in the program improvement plan.

(2) Further Assistance.—If, after the period described in paragraph (1)(A), the Secretary has provided technical assistance to the eligible agency but determines that the eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A), the Secretary may require the eligible agency to make further revisions to the program improvement plan described in paragraph (1). Such further revisions shall be accompanied by further technical assistance from the Secretary.

SEC. 207. STATE ADMINISTRATION.

Section 221(i) of the Adult Education and Family Literacy Act (20 U.S.C. 9221(i)) is amended by striking “and implementation” and inserting “implementation, and monitoring.”

SEC. 208. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

Section 222 of the Adult Education and Family Literacy Act (20 U.S.C. 9222) is amended—
(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “2.5” the first place such terms appear and inserting “80”; and

(ii) by striking “the 82.5 percent” and inserting “such amount”; and

(B) in paragraph (2), by striking “not more than 12.5 percent” and inserting “not more than 15 percent”; and

(C) in paragraph (3), by striking “$65,000” and inserting “$75,000”; and

(ii) by striking “equal to” and inserting “that is not less than”.

SEC. 209. STATE LEADERSHIP ACTIVITIES.

Section 223 of the Adult Education and Family Literacy Act (20 U.S.C. 9223) is amended—
(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting “to develop or enhance the adult education system of the State or outstanding area” after “activities”; and

(B) in paragraph (1), by striking “instruction incorporating and all that follows through the period and inserting “instruction incorporating the essential components of reading instruction and instruction provided by volunteers or personnel of a State or outstanding area”;

(C) in paragraph (2), by inserting “, including development and dissemination of instructional and programmatic practices based on the most rigorous research available in reading, writing, speaking, mathematics, English language acquisition programs, distance learning, and staff training” after “activities”;

(D) in paragraph (5), by striking “monitoring” and inserting the following:

“(6) The development and implementation of technology applications, translation technology, or distance learning, including professional development to support the use of instructional technology.”;

(F) by striking paragraph (7) through paragraph (11) and inserting the following:

“(7) Coordination with—

(A) other partners carrying out activities authorized under this Act; and

(B) existing services, such as transportation, child care, mental health services, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, for adults enrolled in such activities;

(8) Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as such components relate to adults.

(9) The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this subtitle.

(10) The development and implementation of a system to assist in the transition from adult basic education to postsecondary education, including linkages with postsecondary educational institutions.

(11) Integration of literacy and English language instruction with occupational skill training, and promoting linkages with employers;

(12) Activities to promote workplace literacy programs.

(13) Activities to promote and complement local outreach initiatives described in section 234(b)(3)(E).

(14) In cooperation with efforts funded under sections 242 and 243, the development
of curriculum frameworks and rigorous content standards that—

"(A) specify what adult learners should know and be able to do in the areas of reading, language arts, mathematics, and English language acquisition; and

"(B) take into consideration the following:

"(i) State academic standards established under section 111(b)(5) of the Elementary and Secondary Education Act of 1965.

"(ii) The current adult skills and literacy assessments used in the State or outlying area.

"(iii) The core indicators of performance established under section 212(b)(2)(A).

"(iv) Standards and academic requirements, including requirements for non-credit, courses in postsecondary education institutions supported by the State or outlying area.

"(v) Where appropriate, the basic and literacy skill content of occupational and industry skill standards widely used by business and industry in the State or outlying area.

"(vi) In cooperation with efforts funded under sections 242 and 243, development and piloting of—

"(A) new assessment tools and strategies that—

"(i) are based on scientifically based research, where available and appropriate; and

"(ii) are designed to improve teaching quality and capture the gains of students at all levels, with particular emphasis on—

"(I) students at the lowest achievement level;

"(II) students who have limited English proficiency; and

"(III) adults with learning disabilities;

"(B) options for improving teacher quality and retention; and

"(C) assistance in converting research into practice.

"(7) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.

"(8) Other activities of statewide significance that promote the purpose of this title.; and

"(2) in subsection (c), by striking “being State or outlying area-imposed” and inserting “being imposed by the State or outlying area”.

SEC. 210. STATE PLAN.

Section 224 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

"(1) in subsection (a)—

"(A) by striking the heading and inserting “4-YEAR PLANS”; and

"(B) in paragraph (1), by striking “5” and inserting “4”;

"(2) in subsection (b)—

"(A) in paragraph (1), by inserting “and the role of provider and cooperating agencies in preparing the assessment” after “serve”;

"(B) by striking paragraph (2) and inserting the following:

"(2) a description of how the eligible agency will address the adult education and literacy needs identified under paragraph (1) in each workforce development area of the State, using funds received under this subtitle, as well as other Federal, State, or local funds received in partnership with other agencies for the purpose of adult literacy as applicable;”; and

"(C) in paragraph (3)—

"(i) by inserting “and measure” after “evaluate”;

"(ii) by inserting “and improvement” after “effectiveness”;

"(iii) by striking “212” and inserting “212, including—

"(A) how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and

"(B) how the eligible agency—

"(i) will hold providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs and services that are designed to prepare students to enter postsecondary education upon the attainment of a secondary school diploma or its recognized equivalent;

"(ii) will utilize technical assistance, sanctions, and financial rewards (including allocation of grant funds based on performance and termination of grant funds based on performance”;

"(D) by redesignating paragraphs (5) through (12) as paragraphs (6) through (13), respectively;

"(E) by inserting after paragraph (4) the following:

"(G) description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;—

"(1) in paragraph (6) (as redesignated by subparagraph (D)), by striking “who” and all that follows through the semicolon and inserting “that—

"(A) offers flexible schedules and coordinates with necessary Federal, State, and local support services (such as child care, transportation, temporary employment services, and case management) to enable individuals, including individuals with disabilities or individuals with other special needs, to participate in adult education and literacy activities; and

"(B) attempts to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;”;

"(H) in paragraph (10) (as redesignated by subparagraph (D)), by striking “plan,” and inserting “plan, which process—

"(A) shall include the State Workforce Investment Board, the Governor, State officials representing public schools, community colleges, welfare agencies, agencies that provide services to individuals with disabilities, other State agencies that promote or operate adult education and literacy programs, and direct providers of such adult literacy services; and

"(B) may include consultation with the State agency for higher education, institutions responsible for professional development of adult education and literacy education program instructors, institutions of higher education, representatives of business and industry, refugee assistance programs, and community-based organizations (as such term is defined in section 101);”;

"(I) in paragraph (11) (as redesignated by subparagraph (D))—

"(i) by inserting “assessment potential population needs and” after “will”;

"(ii) in subparagraph (C), by striking “students” and inserting “individuals”;

"(iii) in subparagraph (C), by striking “and” after the semicolon; and

"(iv) by adding at the end the following:

"(E) the unemployed; and

"(F) those individuals who are employed, but at levels below self-sufficiency, as defined in section 101.”;

"(J) in paragraph (12) (as redesignated by subparagraph (D))—

"(i) by inserting “how” the plan submitted by the State under this title is coordinated with the plan submitted by the State under title I” after “eligible agency;” and

"(ii) by striking “after the semicolon”;

"(K) in paragraph (13), as redesignated by subparagraph (D), by striking “231(c)(1)” and inserting “231(c)(1), including—

"(A) how the State will build the capacity of organizations that provide adult education and literacy activities; and

"(B) how the State will increase the participation of business and industry in adult education and literacy activities;”;

"(L) by adding at the end the following:

"(14) a description of how the eligible agency will consult with the State agency responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services) that prepare students to enter postsecondary education upon the attainment of a secondary school diploma or its recognized equivalent;

"(15) a description of how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that are designed to prepare students to enter the workforce; and

"(16) a description of how the eligible agency will improve the professional development of eligible providers of adult education and literacy activities.”;

"(3) in subsection (c), by adding at the end the following— “At the end of the first 2-year period of the 4-year State plan, the eligible agency shall review and, as needed, revise the 4-year State plan,”;

"(4) in subsection (d)—

"(A) in paragraph (1), by inserting “, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board” after “Governor”;

"(B) in paragraph (2), by striking “comments” and all that follows through the period and inserting “comments regarding the State plan by the Governor, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board, and any revision to the State plan, are submitted to the Secretary”.

SEC. 211. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

"(1) in subsection (b)—

"(A) in paragraph (1), by striking “basic education” and inserting “adult education and literacy activities”;

"(B) in paragraph (2), by inserting “and” after the semicolon;

"(C) by striking paragraph (3); and

"(D) by redesignating paragraph (4) as paragraph (5); and

"(2) in subsection (d), by striking “DEFINITION OF CRIMINAL OFFENDER.—” and inserting “DEFINITIONS.—In this section”.

SEC. 212. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

Section 231 of the Adult Education and Family Literacy Act (20 U.S.C. 9241) is amended—

"(1) in subsection (b)—

"(A) in paragraph (1), by striking “workplace literacy services” and inserting “workplace literacy programs”;

"(B) in paragraph (3), by striking “literacy” and inserting “language acquisition”; and

"(2) in subsection (e)—

"(A) in paragraph (1), by inserting “to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2) and ‘outcomes’;

"(B) by striking paragraph (3) and inserting the following:

"(3) the commitment of the eligible provider to be responsive to local needs and to serve individuals in the community who were identified by the assessment as most in
need of adult literacy services, including individuals who are low-income, have minimal literacy skills, have learning disabilities, or have limited English proficiency;

(C) by adding at the end the following:

(ii) by striking “research” and inserting “the most rigorous research available, including scientifically based research.”;

(E) in paragraph (7), by inserting “when appropriate and based on the most rigorous research available, including scientifically based research, other research, and real life context”;

(F) in paragraph (9), by inserting “education, job training, and social service” after “other available”;

(G) in paragraph (10)—

(i) by inserting “coordination with Federal, State, and local” after “schedules and” and “and”;

(ii) by striking “and transportation” and inserting “transportation, mental health services, and case management”;

(H) in paragraph (11)—

(i) by inserting “measurable” after “report”; and

(ii) by striking “eligible agency”;

(iii) by inserting “established by the eligible agency” after “performance measures”;

and

(iv) by striking “and” after the semicolon;

(I) in paragraph (12), by striking “literacy program” after “language acquisition program” and “civics education programs”;

and

(J) by adding at the end the following:

(13) the capacity of the eligible provider to produce information on performance results, including enrollments and measurable participation outcomes;

(14) whether reading, writing, speaking, mathematics, and English language acquisition instruction provided by the eligible provider are based on the best practices derived from the most rigorous research available;

(15) whether the eligible provider’s applications of technology and services to be provided are sufficient to increase the amount and quality of learning and lead to measurable learning gains within specified time periods;

(16) the capacity of the eligible provider to serve adult learners with learning disabilities.

SEC. 213. LOCAL APPLICATION. Section 222 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

(1) in paragraph (1)—

(A) by inserting “consistent with the requirements of this subtitle” after “spent” and “and”;

(B) by striking “and” after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

(1) Information that addresses each of the considerations required under section 231(e)."

SEC. 214. LOCAL ADMINISTRATIVE COST LIMITS. Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (a)(2)—

(A) by striking “and professional” after “personnel” and “and”;

(B) by inserting “development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,” after “development.”;

and

(2) in subsection (b)—

(A) by inserting “and professional” after “personnel”;

(B) by inserting “development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,” after “development.”;

SEC. 215. ADMINISTRATIVE PROVISIONS. Section 234(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9234(b)) is amended—

(1) in paragraph (1)(A)—

(A) by striking “adult education and literacy programs that serve children, youth, adults, and families;”;

(B) by striking “was” and inserting “wee”;

and

(2) in paragraph (4)—

(A) by inserting “not more than” after “this subsection for” and “only”;

(B) by adding at the end the following:

(3) COORDINATION.—In identifying the reliable and replicable research, the Institute will support, the Institute shall use standards for research quality that are consistent with those of the Institute of Education Sciences.

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking “literacy programs” and inserting “reading program”;

(ii) by striking “acquisition” and inserting “acquisition programs”;

(iii) by adding at the end the following:

(iv) in subparagraph (C), by striking the period at the end and inserting “and”;

and

(v) by adding at the end the following:

(2) the Secretary shall submit a report biennially to and inserting “Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Amendments of 2005, and biennially thereafter, the Institute shall submit a report to”.

SEC. 216. NATIONAL INSTITUTE FOR LITERACY. Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9232) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “literacy” and inserting “effective literacy programs for children, youth, adults, and families”; and

(B) by striking paragraph (3)(A) and inserting the following:

“(A) coordinating and participating in the Federal effort to identify and disseminate information on literacy that is based on scientifically based research, or the most rigorous research available, and effective programs that serve children, youth, adults, and families; and

(2) by striking subsection (b)(3) and inserting the following:

(3) RECOMMENDATIONS.—The Interagency Group, in consultation with the National Institute for Literacy Advisory Board (in this section referred to as the ‘Board’) established under subsection (e), shall plan the goals of the Institute and the implementation of any programs to achieve the goals. The Board may also request a meeting of the Interagency Group to discuss any recommendations the Board may make.”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking “to establish” and inserting “to maintain”;

(II) in clause (i), by striking “phonemic awareness, systematic phonics, fluency, and reading comprehension” and inserting “the essential components of reading instruction”;

(III) in clause (ii), by striking “and” after the semicolon;

(IV) in clause (iv), by striking “and” after the semicolon;

and

(V) by adding at the end the following:

(2) a list of local adult education and literacy programs;”;

(ii) in subparagraph (C)—

(I) by striking “reliable and replicable research and as defined by the Institute of Education Sciences”; and

(II) by striking “especially with the Office of Educational Research and Improvement in the Department of Education.”;

(iii) by striking “and” after the semicolon;

(2) by striking “The Institute shall submit a report biennially to” and inserting “Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Amendments of 2005, and biennially thereafter, the Institute shall submit a report to”.

SEC. 217. NATIONAL LEADERSHIP ACTIVITIES. Section 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9233) is amended to read as follows:

"SEC. 243. NATIONAL LEADERSHIP ACTIVITIES. National Institute shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

(1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy services, including family literacy services;

and

(B) assistance related to professional development activities, and assistance for the preparation, distribution, and dissemination of the most successful methods and techniques for providing adult
education and literacy activities, including family literacy services, based on scientific evidence where available;

(C) assistance in developing valid, measurable, and reliable performance data, including measurement and employment outcomes, and using performance information for the improvement of adult education and literacy programs; and

(R) “E” States, particularly low-performing States, meet the requirements of section 212.

(2) A program that grants, contracts, or cooperative agreements awarded on a competitive basis to national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to build the capacity of such networks’ members to meet the performance requirements of eligible providers under this title and involve adult learners in program improvement.

(3) Funding national leadership activities that are not described in paragraph (1), either directly or indirectly, improving the quality of, adult education and literacy programs, including family literacy services, based on scientific evidence where available;

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using the essential components of reading instruction based on the work of the National Institute of Child Health and Human Development;

(B) Increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

(C) carrying out rigorous research, including scientifically based research where appropriate, on national literacy basic skill acquisition for adult learning, including estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D)(i) carrying out demonstration programs by--

(ii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs; and

(iii) developing and replicating best practices and innovative programs, including--

(I) the development of models for basic skill education that measure--

(II) the identification of effective strategies for working with adults with learning disabilities and with adults with limited English proficiency;--

(III) integrated basic and workplace skills education programs;

(IV) coordinated literacy and employment programs;

(V) postsecondary education transition programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of--

(i) the effect of performance measures and other measures of accountability on the delivery of instruction and assessment of such activities, including family literacy services;--

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support to enhance adult education and family literacy programs increases the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which different types of providers measurably improve the skills of participants in adult education and literacy programs;

(F) supporting efforts aimed at capacity building of programs at the State and local levels such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems;

(H) supporting the development of an entity that can contribute text technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397(c) of the Communications Act of 1934 (47 U.S.C. 397)) and expand the effective outreach and use of such programs and materials to adult education eligible providers;

(I) determining how participation in adult education and literacy activities prepares individuals for entry into postsecondary education and employment and, in the case of prison-based services, has an effect on recidivism; and

(J) other activities designed to enhance the quality of adult education and literacy activities nationwide.

SEC. 218. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

Chapter 4 of subtitle A of title II (29 U.S.C. 9251 et seq.) is amended by adding at the end the following:

**SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.**

(a) In General.—From funds made available under section 211(a)(4) for each fiscal year, the Secretary shall award grants to States, from allotments under subsection (b), for integrated English literacy and civics education.

(b) Allotment.—

(1) In General.—Subject to paragraph (2), from funds made available under section 211(a)(4) for a fiscal year, the Secretary shall allocate—

(A) 65 percent to the States on the basis of a State’s need for integrated English literacy and civics education as determined by calculating each State’s share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years; and

(B) 35 percent to the States on the basis of whether the State experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available.

(2) MINIMUM.—No State shall receive an allotment under paragraph (1) in an amount that is less than $50,000.

**SEC. 219. TRANSITION.**

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the Adult Education and Family Literacy Act (as amended by this title) from any authority under provisions of the Adult Education and Family Literacy Act (as such Act was in effect on the day before the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005).
management of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system. The plan shall—

(1) describe the steps the Head of the Department of Labor shall take to carry out the duties described in paragraph (2); and

(2) evaluate the performance of the system and recommend needed improvements, with particular attention to the improvements needed at the State and local levels; and

(3) describe the involvement of States in the development of the plan, through consultation between the Secretary and representatives from State agencies in accordance with subsection (d).

(d) COORDINATION WITH THE STATES.—The Secretary of Labor and the Commissioner of Labor Statistics shall coordinate with the State agencies and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

(2) in subparagraph (G), by striking the item relating to "the following:

3. Describe a plan to provide opportunities for employers and vocational rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.

SEC. 404. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 771c) is amended by—

(1) in paragraph (2)(B)—

(A) in the matter preceding clause (i), by inserting "and literacy services" after "supported employment"; and

(B) in clause (ii), by inserting "and literacy skills" after "educational achievement";

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) assistive technology service.—The term "assistive technology service" has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(4) A ssistive technology device.—The term "assistance technology device" has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that such term shall also mean a device that is necessary for an individual to maintain or improve the individual’s functional capacity in the home, community, or workplace."

(5) A ssistive technology device.—The term "assistive technology device" has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that such term has the meaning given the term in section 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(6) to provide opportunities for employers and vocational rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.

A. GENERAL.—The term "student with a disability" means an individual with a disability who attends an elementary or secondary school and who—

(i) is not younger than 16 years of age;

(ii) is not older than 22 years of age;

(iii) has been determined to be eligible under section 102(a) for assistance under title I; and

(iv) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.);

(II) is an individual with a disability, for purposes of section 506.

(7) S TUDENTS WITH DISABILITIES.—The term "students with disabilities" means more than 1 student with a disability.

(8) in paragraph (39)(A)(ii), as redesignated by paragraph (5), by striking "paragraph (36)(C)" and inserting "paragraph (39)(C)";

(9) by inserting after paragraph (40), as redesignated by paragraph (5), the following:

"(41) Transition services expansion year.—The term "transition services expansion year" means—

(A) the fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(f) for fiscal year 2006 by not less than $100,000,000; and

(B) each fiscal year subsequent to that first fiscal year.

SEC. 405. ADMINISTRATION OF THE ACT.

Section 12(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 706(a)(1)) is amended by—

(1) by inserting ‘‘(A)’’ after ‘‘(1)’’;

(2) by adding at the end the following:

"(B) provide technical assistance to the designated State units on developing successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities; and

(C) provide technical assistance on developing self-employment opportunities and outcomes for individuals with disabilities.

SEC. 406. REPORTS.

Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 710) is amended by adding at the end the following:

"(d)(1)(A) The Commissioner shall ensure that the reports, information, and data described in subparagraph (B) are made available to the Secretary of Education, in a timely manner, through the Office of Management and Budget; and

(B) The reports, information, and data referred to in subparagraph (A) shall consist of

(1) reports submitted by a designated State unit under this Act;

(2) accountability information (including State performance information relating to evaluation standards and performance indicators under section 106 and State performance information relating to State performance measures under section 136 of the Workforce Investment Act of 1998 (29 U.S.C. 2871)) submitted by a designated State unit under this Act or submitted under such section 136;

(3) data collected by each designated State unit under this Act with the approval of the Office of Management and Budget; and

(iv) monitoring reports conducted under this Act.

(C) The Commissioner shall maintain, and post on the website, a listing of the reports, information, and data referred to in subparagraph (A) that are available to the public and that are required to be submitted by designated State units under this Act.
verified in coordination with State programs and other reports of electronically collected data and maintained on the Rehabilitation Services Administration management information system by the system maintained by the Department of Education.

SEC. 407. CARRYOVER.

Section 19 of the Rehabilitation Act of 1973 (29 U.S.C. 716) is amended—

(1) in subsection (a)—

(A) by striking "section 509 (except as provided in section 509(b));" and

(B) by striking "or C;" and

(C) by striking "753(b);"

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

"(c) STATE PLAN.—The State plan shall include the following:

(1) a description of the transition program.


SEC. 411. DECLARATION OF POLICY; AUTHORIZATION AND APPROPRIATIONS.

Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) is amended by striking "fiscal years 1999 through 2003;" and inserting "fiscal years 2008 through 2011;".

SEC. 412. STATE PLANS.

(a) IN GENERAL.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(D) STATE AGENCY FOR EMPLOYMENT PURPOSES.—A governing body of an Indian tribe that receives a grant under section 121 of the Social Security Act (42 U.S.C. 1320b) shall be a State agency described in subsection (d) of that section;"

(2) in subsection (d) and (e) of section 1615 of the Social Security Act (42 U.S.C. 1315(d) and (e)), by adding at the end the following:

"(1) a system for the continuing education of rehabilitation professionals and para-professionals within the designated State unit, and the lead agency and implementing agency (if any) designated by the Governor of the State under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), shall have worked relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities provided by the State, the lead agency and implementing agency, and other agencies.

(2) coordination with the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);"

(3) in paragraph (15)—

(A) by redesigning subparagraph (A)—

(i) in clause (i)—

(I) in subclause (II), by striking "and" after the semicolon;

(II) by striking "and" after the semicolon; and

(III) by adding at the end the following:

"(IV) for purposes of addressing needs in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from school to postsecondary education, including the receipt of the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on benefits planning and assistance providers for the benefits planning and assistance programs described in subparagraph (c) of paragraph (15);"

(B) by adding at the end the following:

"(c) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—The State plan shall include an assurance that the designated State agency or C gratefully make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 1381 et seq.) on the basis of a disability or blindness:

"(I) information on the availability of benefits and medical assistance authorized under section 1148 of the Social Security Act (42 U.S.C. 1396 et seq.), and medical assistance authorized under other federally funded programs;

"(II) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

"(III) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on benefits planning and assistance providers for the benefits planning and assistance programs described in subparagraph (d) of paragraph (15).

SEC. 413. OVERSIGHT AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) is amended by striking "(2) in paragraph (6)(B), by striking ""(G) COORDINATION WITH ASSISTIVE TECHNOLOGY ACT OF 1998.—The State plan shall include an assurance that the designated State agency or C shall make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 1381 et seq.) on the basis of a disability or blindness:

"(I) information on the availability of benefits and medical assistance authorized under section 1148 of the Social Security Act (42 U.S.C. 1396 et seq.), and medical assistance authorized under other federally funded programs;

"(II) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

"(III) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on benefits planning and assistance providers for the benefits planning and assistance programs described in subparagraph (d) of paragraph (15)."
(B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B); and

(C) in subparagraph (C)(ii), as redesignated by subsection (b)(2),—

(i) in clause (II), by inserting “to the maximum extent possible,” after “point of contact”; and

(ii) in clause (III), by striking “or regain” and inserting “regain, or advance in”; and

(b) by adding at the end the following:

“SEC. 413. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the semicolon at the end and inserting “,”; including

a listing of all the community resources (including resources from consumer organizations), to the maximum extent possible, to assist in the development of such individual’s individualized plan for employment to enable the individual to make informed and effective choices in developing the individualized plan for employment;”; and

(ii) in subparagraph (D)—

(I) in clause (i), by striking “and” after the semicolon;

(ii) in clause (ii), by striking “and” after the semicolon;

(iii) by adding at the end the following:

“(A) in paragraph (1)(A), by striking the

(ii) in subparagraph (D)—

(I) in clause (i), by striking “and” after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting “, and”;

(iii) by adding at the end the following:

“(A) in paragraph (1)(A), by striking the

(i) in subparagraph (B)(ii) for eligible students

and ‘special education’ have the meanings
given in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).”;

(ii) in subparagraph (C), that

(A) in paragraph (1)

(B) in each transition services expansion year—

(i) shall not use more than 5 percent of the funds reserved under section 119A and available for this subparagraph, to pay for administering the contracts; and

(ii) shall use the remaining funds to carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

(B) in each transition services expansion year—

(i) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

(ii) improve the achievement of post-school goals of students with disabilities through the provision of transition services, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

(iii) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities; and

(iv) provide instruction and technical assistance to local educational agency personnel responsible for the planning and provision of services to students with disabilities; and

(V) support outreach activities to students with disabilities who are eligible for, and need this title; and

(C) in each transition services expansion year, shall ensure that the funds described in subparagraph (B)(ii) are awarded only to partnerships that—

(i) shall include local vocational rehabilitation services providers and local educational agencies; and

(ii) may include (or may have linkages with) other agencies such as employment, social service, and health organizations, that contribute funds for the provision of vocational services described in subparagraph (B)(ii) for eligible students with disabilities.”.

(b) Construction—Section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721) is amended by adding at the end the following:

“SEC. 102. STATE REHABILITATION COUNCIL.

Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting “literacy services,” after “vocational adjustment services,”;

(B) by striking paragraph (15) and inserting the following:

“(B) in each transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);”;

(C) in paragraph (17), by striking “and” after the semicolon;

(D) in paragraph (18), by striking the period at the end and inserting “;”;

(E) by adding at the end the following:

“(19) mentoring services.”;

(2) in subsection (b), by striking paragraph (6) and inserting the following:

“(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

“(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

“(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (ii) of section 7(25)(A), including services described in clauses (i), (ii), (iii), and (iv) of section (25)(B), to assist in the transition from school to postsecondary life, including employment.”.

SEC. 414. VOCATIONAL REHABILITATION SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting “literacy services,” after “vocational adjustment services,”;

(B) by striking paragraph (15) and inserting the following:

“(B) in each transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);”;

(C) in paragraph (17), by striking “and” after the semicolon;

(D) in paragraph (18), by striking the period at the end and inserting “;”;

(E) by adding at the end the following:

“(19) mentoring services.”;

(2) in subsection (b), by striking paragraph (6) and inserting the following:

“(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

“(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

“(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (ii) of section 7(25)(A), including services described in clauses (i), (ii), (iii), and (iv) of section (25)(B), to assist in the transition from school to postsecondary life, including employment.”.

SEC. 415. STATE REHABILITATION COUNCIL.

Section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725) is amended—

(1) in subsection (b)—

(A) in paragraph (1A)—

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

“(ix) in a State in which one or more projects provide services under section 121, at least one representative of the directors of those projects;”;

(ii) in clause (x), by striking the “and” after the semicolon;
(ii) in clause (xi), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(xii) the director of the State’s comprehensive state vocational rehabilitation agency shall report annually to the State’s legislature a complete audit of the operations of the State’s vocational rehabilitation agency for the fiscal year that is based on a comprehensive examination of the effectiveness of the State’s program for individuals with disabilities under subparagraph (B) of this paragraph, including the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 727(b)(1)) is amended by inserting the following:

"(2)(A) As soon as practicable but not later than 1 year after the enactment of this Act, the Commissioner shall report to the Committee on Education and Labor, the Small Business Administration, and the Committee on Indian Affairs, the Secretary, and the Committee on Appropriations, the Secretary shall reserve funds appropriated under this title for each fiscal year for such assistance services in accordance with this section as a designated agency located in the States referred to individually in this subsection on the basis of relative population of each State, except that no such agency shall receive less than $50,000.

"(2)(B) in subsection (b), by striking "the State designated under subsection (c) an agency that";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in paragraph (A), by striking "The Secretary" and all that follows through the period and inserting the following: After reerving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section to the agencies designated in paragraph (1) that are located in the States referred to individually in this subsection on the basis of relative population of each State, except that no such agency shall receive less than $50,000.

(ii) by inserting "the designated agencies located in" after "$100,000 for"; and

(iv) by inserting "the designated agencies located in" after "$45,000 for"; and

(iv) by adding at the end the following:

"(E) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $53,000,000, the Secretary shall reserve funds appropriated under this section to make a grant to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D)."

"(ii) in this subparagraph:


"(II) the term 'protection and advocacy system' means a protection and advocacy system whose allotment under section 110 (29 U.S.C. 730) the following:"

"SEC. 110A. RESERVATION FOR EXPANDED TRANSFORMATION SERVICES.

"(a) Reservation.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner as follows:

(I)(i) a percent of the amount available for each fiscal year, adjusted as necessary by the percentage change in the funds available for each fiscal year, that is equal to the difference between—

(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for such fiscal year (from the payment of an allotment to a State pursuant to this subsection) for such fiscal year.

(ii) A State that is eligible to receive a reallocation under clause (i) shall receive a portion of the amount available for each fiscal year, adjusted as necessary by the percentage change in the funds available for each fiscal year, that is equal to the difference between—

(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for such fiscal year.

(iii) If the amount available for reallocation under paragraph (1) is insufficient to provide each State eligible to receive a reallocation under paragraph (1) that is equal to the difference between—

(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for such fiscal year,

the following:

(C) For each fiscal year that is not a coverage expansion year, each State shall reserve an amount for each fiscal year, adjusted as necessary by the percentage change in the funds available for each fiscal year, that is equal to the difference between—

(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for such fiscal year.

(iv) in subparagraph (D)(i)

(A) consulting with the Department of Labor, the Small Business Administration, other appropriate Federal agencies, and businesses and intermediaries; and

(B) based on information obtained through the consultations, providing technical assistance that improves that quality by enabling State units to develop successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities and technical assistance on developing self-employment opportunities and improving outcomes for individuals with disabilities".

SEC. 418. STATE ALLOCATIONS.

Section 417 of the Rehabilitation Act of 1973 (29 U.S.C. 730) is amended—

(i) by striking subsection (b) and inserting the following:

"(b)(i) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any amount from the payment of an allotment to a State under section 110(b)(1) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

(ii) A State that is not a covered year, the Commissioner shall reallocate the amount available under paragraph (1) to other States, con-
system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $1,000,000, the Secretary shall report not less than 1.8 percent and 2.2 percent of such amount to provide a grant for training and technical assistance for the programs established under this section. Such training and technical assistance shall be coordinated with activities provided under section 1006(c)(1)(A); and

(b) in paragraph (2)—

(i) by striking “State” each place such term appears and inserting “designated agency”; and

(ii) by striking “States” each place such term appears and inserting “designated agencies”;

(4) in subsection (f), by striking “State” and inserting “agency designated under subsection (c)”;

(5) in subsection (g)(1), by striking “State” and inserting “State in which the program is located”;

(6) in subsection (h), by striking “fiscals years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 421. INCENTIVE GRANTS.

Part B of title I of the Rehabilitation Act of 1973 (29 U.S.C. 730 et seq.) is amended by adding at the end the following:

"SEC. 113. INCENTIVE GRANTS.

(a) AUTHORITY.—The Commissioneer is authorized to make incentive grants to States that, based on the criteria established under subsection (b)(1), demonstrate—

(1) a high level of performance; or

(2) a significantly improved level of performance in a reporting period as compared to the previous reporting period or periods.

(b) CRITERIA.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Commissioneer shall establish, and publish in the Federal Register, criteria for making grant awards under subsection (a).

(2) DEVELOPMENT AND EVALUATION STANDARDS.—The criteria established under paragraph (1) shall—

(A) be developed with input from designated State agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations; and

(B) be based upon the evaluation standards and performance indicators established under section 106 and other performance-related measures that the Commissioneer determines to be appropriate.

(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the grant funds for any approved activities in the State’s State plan submitted under section 101.

(d) NO NON-FEDERAL SHARE REQUIREMENT.—The provisions of sections 101(a)(3) and 111(a)(2) shall not apply to this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.

SEC. 422. VOCATIONAL REHABILITATION SERVICES GRANTS.

Section 121 of the Rehabilitation Act of 1973 (29 U.S.C. 741) is amended—

(1) in subsection (b)—

(i) by adding “, consistent with such individuals’ strengths, resources, priorities, concerns, abilities, capabilities, interests, and information so that such individuals may prepare for, and engage in, gainful employment” before the period at the end; and

(ii) in subparagraph (B), by inserting “, and the Workforce of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

(b) STUDY ON THE ALLOTMENT FORMULA.—

(1) IN GENERAL.—The Commissioneer General of the United States shall conduct a study on the relationship between the State allotment formula under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 740) and the ability of States to provide vocational rehabilitation services in accordance with the States’ State plans under section 101 of such Act (29 U.S.C. 730) and of the United States shall consult with appropriate entities.

(2) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Commissioneer General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

SEC. 431. DECLARATION OF PURPOSE.

Section 200(3) of the Rehabilitation Act of 1973 (29 U.S.C. 760(3)) is amended by inserting “, in a timely and efficient manner,” before the period at the end.

SEC. 432. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended—

(1) in subsection (b)—

(A) by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”; and

(B) in paragraph (2), by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 433. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting before the semicolon the following:

(1) by striking the fragment “Federal employees” and inserting “Department of Education employees”;

(B) in paragraph (10), by striking “and telecommuting” and inserting “supported employment, and telecommuting”;

(2) in subsection (k)—

(A) by striking “Federal employees” and inserting “Department of Education employees”;

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

(1) To assist the Director in carrying out the responsibilities described in paragraph (1), the Director shall require recipients of financial assistance under this Act and the Workforce of the United States shall develop and submit relevant information to evaluate program outcomes with respect to the measurable goals described in section 204(d)(2); and

(m) Not later than December 31 of each year, the Secretary shall prepare, and submit to the Secretary, the Committee on Education and Labor, the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the United States General of the United States shall consult with appropriate entities.

(2) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Commissioneer General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.
the Senate, a report on the activities funded under this title.

‘‘(2) Such report shall include—

(A) a compilation and summary of the information received from recipients of financial assistance for such activities under this title; and

(B) a summary of the applications for financial assistance received under this title and the progress of the recipients of financial assistance in achieving the measurable goals described in section 204(d).”

“(m) If the Director determines that an entity that receives financial assistance under this title fails to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals described in section 204(d)(2), with respect to the covered activities involved, the Director shall assist the entity through technical assistance or other means, within 90 days after such determination, to develop a corrective action plan.

“(1) The Secretary shall—

(A) conduct a study, on the assistive technology industry, for which the Committee shall—

(i) determine the number of individuals who use assistive technology and the scope of the technologies they use;

(ii) separately identify categories of assistive technology companies by the disability, size, and type of product or service provided, categorized by—

(I) size (small, medium, and large) of the company; and

(II) capitalization of the company; and

(III) region in which the companies are located; and

(iv) products or services produced by the companies;

(v) compile aggregate data on revenues and unit sales of such companies, including information on international sales, for a recent time period, categorized by institution or user type acquiring the products or services, disability for which the products or services are used, and industry segment for the company; and

(vi) identify platform availability and usage, for those products and services that are electronic and information technology-related;

(vii) identify the types of clients of the companies, such as government, school, business, private payor, and charitable clients, and funding sources for the clients; and

(viii) verify geographic segments for the companies, to determine whether there are significant differences in opportunities or the basis of geography, other than distinctions related to population.’’.

SEC. 435. RESEARCH AND OTHER COVERED ACTIVITIES.

Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 764) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)—

(i) in clause (vi), by striking ‘‘and’’ after the semicolon;

(ii) in clause (vii), by striking the period at the end and inserting ‘‘;’’; and

(iii) by adding at the end the following:

‘‘(viii) studies, analyses, and other activities affecting employment outcomes, including self-employment and telecommuting, of individuals with disabilities;’’; and

(B) by adding at the end the following:

‘‘(3) The Secretary shall establish appeals procedures for entities described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective action plans.

‘‘(1) The entity shall develop and comply with a corrective action plan described in paragraph (1) for a fiscal year, the entity shall be subject to 1 of the following corrective action plans selected by the Director:

‘‘(I) Partial or complete termination of financial assistance for the covered activities, until the entity develops and complies with such a plan.

‘‘(II) Ineligibility to receive financial assistance for such covered activities for the following fiscal year.

‘‘(3) The Secretary shall establish appeals procedures for entities described in paragraph (1) that the Secretary determines fail to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals.

‘‘(4) An annual report required under subsection (m), the Secretary shall describe each action taken by the Secretary under paragraph (1) or (2) and the outcomes of such action.’’.

SEC. 434. INTERAGENCY COMMITTEE.

Section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 763) is amended—

(1) in subsection (a)(1), by striking ‘‘and the Director of the National Science Foundation’’ and inserting ‘‘the Director of the National Science Foundation, the Secretary of Commerce, the Administrator of the Small Business Administration;’’ and

(2) in subsection (b)(2)—

(A) in paragraph (D), by striking ‘‘and’’ after the semicolon;

(B) in paragraph (E), by striking the period at the end and inserting ‘‘;’’; and

(C) by adding at the end the following:

‘‘(F) to provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities for individuals with disabilities; and

‘‘(G) Research grants may be used to provide for research and demonstration projects that—

(A) explore methods and practices for promoting access to electronic commerce activities for individuals with disabilities; and

(B) will—

(i) result in the establishment and maintenance of close working relationships between the disability, research, and business communities; and

(ii) in the case of research, dissemination of research findings; and

(ii) provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities for individuals with disabilities; and

(iii) result in the establishment and maintenance of close working relationships between the disability, research, and business communities; and

(D) by adding at the end the following:

‘‘(i) the Secretary shall emphasize covered activities that are collaboration between—

‘‘(I) for-profit companies working in the assistive technology, rehabilitative engineering, or information technology fields; and

‘‘(II) States or public or private technology and organizations.

‘‘(4) In carrying out this section, the Director shall emphasize covered activities that include plans for—

‘‘(A) dissemination of educational materials, research findings, or findings, conclusions, and recommendations resulting from covered activities; or

‘‘(B) the commercialization of marketable products resulting from the covered activities.’’.”
“(ii) information describing how the applicant will quantifiably measure the goals to determine whether the goals have been accomplished;”

“(1) in the case of an application for financial assistance under this title to carry out a covered activity that results in the development of a marketable product, the application shall also include a commercialization and dissemination plan, containing commercialization and marketing strategies for the product involved, and strategies for disseminating information about the product. The financial assistance shall not be used to carry out the commercialization and marketing strategies."

“(d) in the case of any other application for financial assistance to carry out a covered activity under this title, the application shall also include a dissemination plan, containing strategies for disseminating educational materials, research results, or findings, conclusions, and recommendations, resulting from the covered activity.”

SEC. 437. DEFINITION.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 761 et seq.) is amended by adding at the end the following:

“SEC. 206. DEFINITION.

“In this title, the term ‘covered school’ means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), the community college, or an institution of higher education.”

Subtitle C—Professional Development and Special Projects and Demonstrations

SEC. 441. TRAINING.

Section 302 of the Rehabilitation Act of 1973 (29 U.S.C. 772) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (F), by striking the “and” after the semicolon;

(B) in subparagraph (G), by striking the periods at the end and inserting “and”;

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

“(H) personnel trained in providing assistive technology services;”

(2) in subsection (b)(1), by striking “or prosthetics and orthotics” and inserting “prosthetics and orthotics, rehabilitation teaching for the blind, or orientation and mobility instruction”; and

(3) in subsection (i), by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 442. DEMONSTRATION AND TRAINING PROGRAMS.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) in subsection (a), by striking “special projects” and inserting “not less than 2 special projects”;

(2) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (i), respectively;

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

“(c) DEMONSTRATION PROJECTS FOR EMPLOYMENT OF STUDENTS WITH INTELLECTUAL DISABILITIES OR MENTAL ILLNESS.—

(1) PURPOSE.—The purpose of this subsection is to demonstrate projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness who need training from the school to postsecondary life, including employment.

(2) AWARDS AUTHORIZED.—

(A) COMPETITIVE AWARDS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to eligible organizations described in paragraph (3), to enable the organizations to carry out demonstration projects described in paragraph (1).

(B) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this subsection for periods of 3 to 5 years.

(3) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an organization shall—

(A) have expertise in providing employment and support services for individuals with intellectual disabilities or individuals with mental illness;

(B) have a proven track record in successfully running supported employment programs;

(C) provide employment services that are exclusive or integrated community-based supported employment services;

(D) have expertise in creating natural supports for employment;

(E) have expertise in computer training for the targeted population for the project involved; and

(F) have experience operating mentoring programs for children in middle and high schools for at least a decade in diverse communities throughout the Nation.

(4) APPLICATIONS.—Each organization desiring to receive a grant or cooperative agreement under this subsection shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. Each application shall include—

(A) a description of how the organization plans to carry out the activities authorized by this subsection through a demonstration project;

(B) a description of how the organization will evaluate the project;

(C) a description of how the organization will disseminate information about the activities and the impact of the activities on the lives of students served by the project; and

(D) a description of how the organization will coordinate activities with any other relevant service providers in the locality where the organization is located.

(5) AUTHORIZED ACTIVITIES.—An organization that receives a grant, contract, or cooperative agreement under this subsection shall use the funds made available through the grant, contract, or cooperative agreement to carry out 1 or more of the following activities—

(A) providing supported and competitive employment experiences for students with intellectual disabilities or students with mental illness;

(B) providing supported and competitive employment experiences for students with intellectual disabilities or students with mental illness;

(C) providing supported and competitive employment experiences for students with intellectual disabilities or students with mental illness;

(D) providing supported and competitive employment experiences for students with intellectual disabilities or students with mental illness;

(E) providing supported and competitive employment experiences for students with intellectual disabilities or students with mental illness;
support services to assist individuals who complete the training program under sub-
paragraph (A) in securing employment and trans-
itioning to the workplace, for a period of not
time than six subsequent to placement
in the employment.

(5) APPLICATIONS.—Each entity desiring to receive a grant under this subsection for a model demonstration project shall submit
an application to the Secretary at such time,
in such manner, and accompanied by such in-
formation as the Secretary may require in-
cluding—

(A) a description of how the applicant
plans to address the activities authorized
under this subsection;

(B) a description of the evaluation plan to
be used in the model demonstration project;

(C) a description of how the applicant will
disseminate the information about the training
program developed and the results of the project;

and

(D) a description of how the entity will
coordinate activities with any other relevant
service providers or entities providing
training and employment and support services
for individuals who are deaf and low func-
tional

(6) MANDATED EVALUATION AND DISSEMINA-
TION ACTIVITIES.—

(A) ANNUAL REPORT.—Not later than 2
years from the date on which a grant under
this subsection is awarded and annually there-
after, the grant recipient shall submit to the
Commissioner a report containing in-
formation as the Secretary may require in-
cluding—

(i) the number of individuals who are par-
ticipating in the demonstration project fund-
ed under this subsection;

(ii) the employment and other skills
being taught in the project;

(iii) the number of individuals partici-
pating in the project that are placed in em-
ployment;

(iv) the job sites in which those individ-
uals are placed and the type of jobs the indi-
viduals are placed in; and

(v) the number of individuals who have
dropped out of the project and the reasons
for their terminating participation in the project.

(B) EVALUATION OF THE PROJECT.—Each
grant recipient under this subsection shall
implement the evaluation plan approved in its
application determining the results of the
project within the timeframe specified in, and following the provisions of, the
approved evaluation plan.

(C) PARTICIPANT EVALUATION PROCESS;
FINAL EVALUATION.—In the final year of the
project, the grant recipient will prepare and submit to the Commissioner a final evalu-
ation report of the results of the model dem-
stration project containing—

(i) information on—

(I) the number of individuals who par-
ticipated in the demonstration project;

(II) the number of those individuals who
are placed in employment;

(III) the number of those which those individ-
uals were placed and the type of jobs the indi-
viduals were placed in;

(IV) the number of those individuals who
have dropped out of the project and the rea-
sons for their terminating participation in
the project; and

(V) the number of those individuals who
completed the program and who remain
employed as of 2 months prior to the date on
which the final report is submitted to the
Secretary;

(ii) a written analysis of the project, in-
cluding both the strengths and weaknesses of
the project, to assist other entities in repli-
cating the training program developed through
this subsection;

(iii) such other information as the Sec-
retary determines appropriate.

(3) C OLLABORATION.

(A) agencies carrying out vocational reha-
bilitation programs under title I and na-
tional organizations representing such pro-
gress

(B) organizations representing individuals with disabilities;
(C) organizations representing State officials and agencies engaged in the delivery of assistive technology;

(D) relevant employees from Federal departments and agencies, other than the Department of Education;

(E) representatives of businesses;

(F) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services; and

(G) family members, guardians, advocates, and authorized representatives of such individuals.

(4) by inserting after subsection (g), as redesignated by paragraph (2), the following:

"(h) ACCESS TO TELEWORK.—

(1) DEFINITION OF TELEWORK.—In this subsection, the term 'telework' means work from home or other telework sites so that such individuals are able to facilitate access to employment and enhance pathways for students at a covered institution of higher education has established a consortium of member institutions, to develop and carry out programs, including information about the individual such as the following:

(I) Age.

(II) Ethnicity.

(i) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, description of such means.

(ii) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, and, if so, whether the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or alternative financing mechanism under this subsection, in fields pertinent to individuals with disabilities.

(VI) The individual has repaid assistance from the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the assistance from the loan or other alternative financing mechanism.

(2) ANNUAL REPORT.—The report under subparagraph (A) shall include the following:

(i) Information on the characteristics of each individual with a disability that receives assistance through a loan or other alternative financing mechanism under this subsection.

(ii) A description of the sources of assistance from the loan or other alternative financing mechanism received under the program, including information about the individual such as the following:

(I) Age.

(II) Ethnicity.

(iii) Employment status at the time of application for assistance through a loan or other alternative financing mechanism under this subsection.

(ix) A description of those individuals who have been referred to other alternative financing mechanisms.

(x) Other relevant information.

(x) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, and, if so, whether the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or other alternative financing mechanism under this subsection.

(x) The description of the sources of assistance from the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the assistance from the loan or other alternative financing mechanism.

(x) Analysis of the individuals with disabilities that have benefited from the program.

(x) Any other information that the Commissioner may require.

(5) in subsection (i), as redesignated by paragraph (2), by inserting "this section" and inserting "this section (other than subsections (c) and (d))"; and

(6) by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2008 through 2011".

SEC. 443. DISABILITY CAREER PATHWAYS PROGRAM.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) by redesignating subsection (i) (as redesignated by section 422) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) GRANTS FOR DISABILITY CAREER PATHWAYS PROGRAM.—

(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given in the term in section 3 of the Assistive Technology Act of 2004 (29 U.S.C. 3002).

(B) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a center for independent living funded under subtitle C of title VII.

(C) COVERED INSTITUTION.—The term 'covered institution' means—

(i) a secondary school; and

(ii) in the discretion of the eligible consortium, an institution of higher education.

(D) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium described in paragraph (3)(A).

(E) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given in the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(F) PURPOSE OF PROGRAM.—The Commissioner may establish a Disability Career Pathways program, through which the Commissioner may make grants, for periods of up to 5 years, to institutions of higher education that establish eligible consortia, to enable the consortia to develop and carry out training and education related to disability studies and leadership development. The consortia shall provide the training and education for the purpose of providing career pathways for students at a covered institution of higher education shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating—

(A) that the institution of higher education has established a consortium of members that represent—

(i) the institution of higher education;

(ii) a community college;

(iii) a secondary school;

(iv) a center for independent living;

(v) a designated State agency;

(vi) a one-stop career service center established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2811); and

(vii) the local business community;

(B) the collaborative working relationship between the institution of higher education and the other members of the consortium, and describing the activities that each member shall undertake; and

(C) the capacity of the consortium of the institution of higher education—

(i) to coordinate training and education related to disability studies and leadership development among students at a covered institution and disability-related organizations; and

(ii) to conduct such training and education effectively.

(D) DISTRIBUTION OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that the grants shall be distributed for a geographically diverse set of eligible consortia throughout all regions of the country.

(E) MANDATORY USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium shall expend the consortium shall use the grant funds to—

(A) encourage interest in, enhance awareness of, and provide educational opportunities for disability-related fields, and encourage leadership development among students at a covered institution, including such students who are individuals with disabilities;

(B) enable the students at a covered institution to gain practical skills and identify work experience opportunities, including opportunities with businesses, organizations and institutions in conjunction with the private sector, that benefit individuals with disabilities;
"(C) develop postsecondary school career pathways leading to gainful employment, the attainment of an associate or baccalaureate degree, or the completion of further coursework for a further degree, in a disability-related field; and

"(D) offer credit-bearing, college-level coursework in a disability-related field to qualified students at a covered institution; and

"(E) ensure faculty and staff employed by the members are available to students at a covered institution for educational and career advising, and to teachers and staff at a covered institution for disability-related training.

"(6) PERMISSIBLE USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium may permit the consortium to use the grant funds to assess the feasibility of developing or adapting disabilities studies curricula, including curricula with distance learning opportunities, for use at institutions of higher education.

"(7) CONSULTATION.—The consortium shall consult with appropriate agencies that serve or assist individuals with disabilities, and the members, their guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the consortium, concerning the program carried out under this subsection.

"(8) REVIEWS.—

"(A) ANNUAL COMMITTEE.—For an institution of higher education to be eligible to receive a grant under this subsection on behalf of a consortium, the consortium shall have an advisory committee that consists of members that represent the interests of individuals with disabilities, including—

"(i) a professional in the field of vocational rehabilitation;

"(ii) an individual with a disability or a family member of such an individual; and

"(iii) a representative of each type of entity or community represented on the consortium.

"(B) QUARTERLY REVIEWS.—The advisory committee shall meet at least once during each calendar quarter to conduct a review of the program of education and training carried out by the consortium.

"(9) ACCOUNTABILITY.—Every 2 years, the Commissioner shall—

"(A) using information collected from the reviews required in paragraph (8), assess the effectiveness of the Disability Career Pathways program carried out under this subsection, including assessing how many individuals were served by each eligible consortium and how many of those individuals received postsecondary education, or entered into employment, in a disability-related field; and

"(B) prepare and submit to Congress a report containing the results of the assessments described in subparagraph (A)."

SEC. 444. MIGRANT AND SEASONAL FARM- WORKERS.

Section 304(b) of the Rehabilitation Act of 1973 (29 U.S.C. 775) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 445. RECREATIONAL PROGRAMS.

Section 305 of the Rehabilitation Act of 1973 (29 U.S.C. 775) is amended—

"(1) in subsection (a)(1)(B), by striking “construction of facilities for aquatic rehabilitation therapy,”; and

"(2) in subsection (b), by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

Subtitle D—National Council on Disability

SEC. 451. AUTHORIZATION OF APPROPRIATIONS.


Subtitle E—Rights and Advocacy

SEC. 461. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

Section 502(d) of the Rehabilitation Act of 1973 (29 U.S.C. 796a) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

Subtitle F—Independent Living Opportunities for Individuals With Disabilities

SEC. 471. PROJECTS WITH INDUSTRY.

Section 611(a) of the Rehabilitation Act of 1973 (29 U.S.C. 786a) is amended—

"(1) in paragraph (l), by inserting “, locally and nationally” before the period at the end; and

"(2) in paragraph (2)—

"(A) in the matter preceding subparagraph (A), by inserting “local and national” before “Projects With Industry”; and

"(B) in subparagraph (A)—

"(i) in clause (i), by striking “and” after the semicolon;

"(ii) in clause (iv), by inserting “and” after the semicolon; and

"(iii) by adding at the end the following:

"(iv) coordinate activities with the Job Corps center industry councils established under section 154 of the Workforce Investment Act of 1998.

SEC. 472. PROJECTS WITH INDUSTRY AUTHORIZATION OF APPROPRIATIONS.

Section 612 of the Rehabilitation Act of 1973 (29 U.S.C. 786b) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 473. SERVICES FOR INDIVIDUALS WITH SIGNIFICANT DISABILITIES AUTHORIZATION OF APPROPRIATIONS.


Subtitle G—Independent Living Services and Centers for Independent Living

SEC. 481. STATE PLAN.

Section 704 of the Rehabilitation Act of 1973 (42 U.S.C. 1414) is amended by adding at the end the following:

"(o) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

"(1) IN GENERAL.—The plan shall describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities.

"(2) SERVICES.—The services shall include, as appropriate—

"(A) facilitating transitions of—

"(i) youth who have significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

"(ii) individuals with significant disabilities from nursing homes to other institutions, including serving individuals with cognitive disabilities, to community-based residences;

"(B) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

"(C) promoting home ownership among individuals with disabilities.”

SEC. 482. STATEWIDE INDEPENDENT LIVING COUNCIL.

Section 705(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796b) is amended—

"(1) in paragraph (2), by striking subparagraph (c) and inserting the following:

"(C) in a State in which 1 or more projects provide services under section 121, not less than 1 representative of the directors of the projects; and

"(2) by striking paragraph (5) and inserting the following:

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the membership of the Council.”.

SEC. 483. INDEPENDENT LIVING SERVICES AUTHORIZATION OF APPROPRIATIONS.

Section 714 of the Rehabilitation Act of 1973 (29 U.S.C. 796c) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 484. PROGRAM AUTHORIZATION.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 1416) is amended—

"(1) by striking subsection (c) and inserting the following:

"(c) ALLOCATIONS TO STATES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADDITIONAL APPROPRIATION.—The term ‘additional appropriation’ means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

"(i) the amount reserved under subsection (b) for that fiscal year; and

"(ii) the appropriation for fiscal year 2003.

"(B) APPROPRIATION.—The term ‘appropriation’ means the amount appropriated to carry out this part.

"(C) BASE APPROPRIATION.—The term ‘base appropriation’ means the portion of the appropriation for a fiscal year that is equal to the lesser of—

"(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

"(ii) the appropriation for fiscal year 2003.

"(2) ALLOCATIONS TO STATES FROM BASE APPROPRIATION.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

"(3) ALLOCATIONS TO STATES OF ADDITIONAL APPROPRIATION.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

"(A) an amount that bears the same ratio to the base appropriation as the population of the State bears to the population of all States; and

"(B) 1% of the additional appropriation.

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

"(e) CARRYOVER AUTHORITY.—Notwithstanding any other provision of law—
SEC. 485. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f-3(c)) is amended—

(1) by striking “grants” and inserting “grants for a fiscal year”;

(2) by striking “by September 30, 1997” and inserting “for the preceding fiscal year”;

SEC. 486. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS FEDERAL FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f-3(c)) is amended—

(1) by striking “grants” and inserting “grants for a fiscal year”;

(2) by striking “by September 30, 1997” and inserting “for the preceding fiscal year”.

SEC. 487. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

Section 726(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796f-4(b)) is amended by adding at the end the following:

“(8) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

“(A) IN GENERAL.—The center shall provide independent living services that promote full access to community life for individuals with significant disabilities, and

“(B) SERVICES.—The services shall include, as appropriate—

“(i) facilitating transitions to community living by individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

“(ii) addressing issues of community-based residences;

“(iii) assisting individuals with significant disabilities to secure full community access to the institutions to remain in the community; and

“(iv) promoting home ownership among individuals with significant disabilities.

SEC. 488. CENTERS FOR INDEPENDENT LIVING AUTHORIZATION OF APPROPRIATIONS.


SEC. 489. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.


(1) by redesignating sections 752 and 753 as sections 752(a) and 753(a), respectively; and

(2) by inserting after section 751 the following:

“SEC. 752. TRAINING AND TECHNICAL ASSISTANCE.

“(a) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year for which the funds appropriated for carry out this chapter exceed the funds appropriated for carry out this chapter for fiscal year 2003, the Commissioner shall make grants, contracts and other arrangements to designated State agencies for such fiscal year, not less than 1.3 percent, and not more than 2 percent, of the funds appropriated for carry out this chapter for the fiscal year involved.

“(b) ALLOCATION.—From the funds reserved under subsection (a), the Commissioner shall make grants, contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to ensure that training and technical assistance with respect to planning, conducting, administering, and evaluating independent living programs for older individuals who are blind.

“(c) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section.

“(d) Reviews.—To be eligible to receive a grant or enter into a contract or other arrangement under this section, an entity shall submit an application to the Commissioner, containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require.

“(e) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this section may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such reserved funds are separately identified in the agreement for such grant or payment and are used for the purposes of this chapter.”.

SEC. 490. PROGRAM OF GRANTS.

Section 753 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended—

(1) by striking subsection (h);

(2) by redesigning subsections (i) and (j) as subsections (h) and (i), respectively;

(3) in subsection (b), by striking “section 753” and inserting “section 754”;

(4) in subsection (a)(1), by striking “an amount equal to 1⁄10 of the funds reserved under section 754 for the preceding fiscal year” and inserting “an amount equal to 1⁄10 of the funds reserved under section 754 for the fiscal year and available for allotments under this subsection”;

(5) in subsection (a)(2), by striking “A STATE, the District of Columbia, or the Commonwealth of Puerto Rico” and inserting “the State, the District of Columbia, or the Commonwealth of Puerto Rico”;

(6) in subsection (h), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking “section 753” and inserting “section 754”;

(B) in paragraph (2)—

(i) by striking subsection (j) and inserting—

“subsection (i);”;

(ii) by striking subsection (i) and inserting—

“subsection (h);”;

(iii) by striking “, or contracts with,” after “grants to”; and

(iv) by striking “;” and inserting “, and” after the semicolon;

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by adding “and” after the semicolon;

(ii) in subparagraph (B)(ii)(III), by striking “;” and inserting a period; and

(iii) by striking paragraphs (C), (D), and (E) of this paragraph and inserting the following:

“(M) MINIMUM ALLOTMENT.—

“(A) STATES.—In the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico referred to in paragraph (1)(A) for a fiscal year is the greater of—

“(i) $350,000;

“(ii) an amount equal to the amount the State, the District of Columbia, or the Commonwealth of Puerto Rico received to carry out this chapter for fiscal year 2003; or

“(iii) an amount equal to 1⁄10 of 1 percent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year involved.”.

SEC. 491. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND AND AUTHORIZATION OF APPROPRIATIONS.

Section 754 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”. The following:

Section 502. EFFECTIVE DATE.

The Secretary shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles I and III of this Act. The Secretary shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles II and IV of this Act.

SEC. 502. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. Kennedy. Mr. President, it is a privilege to join my colleagues in introducing this bipartisan bill to reauthorize the Workforce Investment Act and the One-Stop system, which provides services for workers to obtain the services and training they need to hold good jobs in the years ahead.

This bill strengthens the current One-Stop system we established in 1998, so that many more people can be served. The bill creates stronger partnerships with businesses to recruit new workers, collaborate in training current workers, improve career ladder opportunities, and work with local leaders to meet the changing needs of their communities.

The One-Stop system is needed more than ever now, to serve hard-working Americans who have lost their jobs
through no fault of their own as we struggle to rebuild our economy and adjust to the new century and the globalization forces that are transforming our society and our workforce. Current employees, especially the growing numbers of manufacturing workers, need effective training to be eligible for the available jobs in their area.

We have also worked to remove the sequencing of services for persons entering the workforce who face barriers to employment. Individuals with disabilities can be competitive. The bill also encourages local providers to continue the training programs until employees can be self-sufficient. For those who start on the minimum wage, the support system should be there to help them qualify for the better-paying jobs that will enable them to support their families. Some men and women may obtain their first job through the system, and continue to participate as they move up their career ladders.

The bill will also help young people. Last summer, the youth unemployment rate rose to 17 percent and we were all acutely aware of the special challenges that young workers face in this economy. The youth program will continue to work with both in-school and out-of-school young men and women to help them obtain the education and the real job experience they need to be competitive.

The bill pays particular attention to the needs of people with disabilities. Their access to the program is essential if the system is to be truly universal. It’s unacceptable today that hundreds of thousands of people with disabilities are unable to find employment. Workforce training programs must work with vocational rehabilitation programs to provide many more opportunities for those with physical and mental challenges.

For over thirty years, since the Vocational Rehabilitation Act was first enacted in 1973, state vocational rehabilitation programs have brought new hope to individuals with disabilities throughout the country, so that they can reach their full potential and actively participate in their communities.

Through vocational rehabilitation, individuals with disabilities can obtain the training, counseling, support and job opportunities they need in order to have independent, productive, and fulfilling lives. For millions of these Americans, vocational rehabilitation is the difference between dependence and independence, between lost potential and a productive career.

In 1998, vocational rehabilitation became part of the state-wide workforce system in each state. This new authorization will strengthen that partnership, so that many more working-age individuals with disabilities, even those with the most significant challenges, have realistic opportunities to obtain the services and support they need to reach their employment goals.

The legislation also strengthens other aspects of independent living, so that students and adults with disabilities can reach their full potential and support they need for community-based living.

Our goal in this reauthorization is to see that the talents and strengths of all individuals with disabilities are recognized by employers by at least 65 percent less energy than the 2004 federal standard to qualify for the higher credit. Refrigerators must exceed the 2001 energy conservation standards for comparably sized models by at least 15 percent to receive a credit under this bill.

This bill will not only save energy, and reduce the consumers’ energy bills over the life of the appliance. It is estimated that, over twenty years, the credit would reduce the amount of water used to wash clothes by approximately a trillion gallons, the amount used in two years by a city the size of Phoenix, Arizona.

In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

As Benjamin Franklin observed, “When the well is dry, we know the worth of water.” In many parts of the arid west, the well is running dry on a regular basis. The 10-year drought in the Colorado River Basin, which has seen relief this year, had produced the lowest flows on record last year, straining an important resource for millions of people. The Columbia River Basin has also experienced below average flows in recent years.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that, in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 80 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. I am pleased to announce today that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

with the most significant challenges, have realistic opportunities to obtain the services and support they need to reach their employment goals.

The legislation also strengthens other aspects of independent living, so that students and adults with disabilities are recognized by employers by at least 65 percent less energy than the 2004 federal standard to qualify for the higher credit. Refrigerators must exceed the 2001 energy conservation standards for comparably sized models by at least 15 percent to receive a credit under this bill.

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S. 1022

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Resource Efficient Appliance Incentives Act of 2005.”

SEC. 2. CREDIT FOR ENERGY EFFICIENT APPLIANCES. (a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end thereof the following new section:

“SEC. 45J. ENERGY EFFICIENT APPLIANCE CREDIT. ““(a) General Rule.—“(1) In general.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

“(2) Credit amounts.—The credit amount determined for any type of qualified energy efficient appliance is—

“(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

“(B) the eligible production for such type.

“(b) Applicable amount.—“(1) In general.—For purposes of subsection (a) the applicable amount is—

“(I) in the case of a clothes washer, which—

“(i) is manufactured in calendar year 2005 or 2007, and

“(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007,

“(II) clothes washers.—The applicable amount is—

“(i) $50, in the case of a clothes washer which—

“(I) is manufactured in calendar year 2005, and

“(II) has an MEF of at least 1.42.

“(ii) $100, in the case of a clothes washer which—

“(I) is manufactured in calendar year 2005, 2006, or 2007, and

“(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007,

“(II) refrigerator.—The applicable amount is—

“(i) $75, in the case of a refrigerator which—

“(I) is manufactured in calendar year 2005, or

“(II) consumes at least 15 percent less kilowatt hours per year than the 2001 energy conservation standard.

“(ii) 20 percent savings.—In the case of a refrigerator which consumes at least 20 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

“(I) $25 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

“(II) $100 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007.

“(c) Eligible production.—“(1) In general.—Except as provided in subparagraph (a) and (b), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during each calendar year, over

“(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(2) Special rule for refrigerators.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

“(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(2) Special rule for refrigerators.—

“(A) In General.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

“(A) the number of appliances of such type which were produced by the taxpayer in the United States during each calendar year, over

“(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(B) Energy Savings Percentage.—For purposes of paragraph (1)(A), the energy savings percentage is the ratio of—

“(I) the product of—

“(i) $3, and

“(ii) 100 multiplied by the energy savings percentage, or

“(II) $100.

“(C) Energy and Water Savings Amount.—For purposes of paragraphs (1)(B) and (1)(C), the energy and water savings amount is the lesser of—

“(I) the product of—

“(i) $10, and

“(ii) 100 multiplied by the energy and water savings percentage, or

“(II) $200.

“(D) Energy and Water Savings Percentage.—For purposes of subparagraph (A), the energy and water savings percentage is the ratio of—

“(I) the MEF required by the Energy Star program for dishwashers in 2007 minus the WFS required by the Energy Star program for dishwashers in 2007, to

“(II) the WFS required by the Energy Star program for dishwashers in 2007.

“(2) Amount allowed for certain appliances.—“(A) In general.—In the case of appliances described in subparagraph (C), the aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $57,500,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

“(B) Election to increase allowable credit.—In the case of any taxpayer who makes an election under this subparagraph—

“(i) subparagraph (A) shall be applied by substituting "$25,000,000" for "$20,000,000", and

“(ii) the aggregate amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances shall be taken into account under paragraph (1)(A) and (2)(A).

“(3) Special rule for 2005 production.—For purposes of determining eligible production for calendar year 2005—

“(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

“(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

“(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

“(ii) 365.

“(4) Types of Energy Efficient Appliances.—For purposes of this section, the types of energy efficient appliances are—

“(A) dishwashers described in subsection (b)(1)(A),

“(B) clothes washers described in subsection (b)(1)(B)(i),

“(C) clothes washers described in subsection (b)(1)(B)(ii),

“(D) refrigerators described in subsection (b)(1)(C)(i),

“(E) refrigerators described in subsection (b)(1)(C)(ii),

“(F) refrigerators described in subsection (b)(1)(C)(iii),

“(G) refrigerators described in subsection (b)(1)(C)(iv),

“(H) additional appliances described in subsection (b)(1)(C)(v).

“(5) Limitations.—

“(A) Aggregate Credit Amount Allowed.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

“(B) Amount Allowed for Certain Appliances.—

“(A) In general.—In the case of appliances described in subparagraph (C), the aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year for appliances described in subparagraph (C) and the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

“(C) Applications Described.—The applications described in this subparagraph are—

“(i) refrigerators described in subsection (b)(1)(C)(i), and

“(ii) refrigerators described in subsection (b)(1)(C)(ii),

“(D) Additional Appliances.—The additional appliances described in this subparagraph are—

“(i) refrigerators described in subsection (b)(1)(C)(iii), and

“(ii) refrigerators described in subsection (b)(1)(C)(iv).

“(E) Limitation Based on Gross Receipts.—The credit allowed under subsection
(a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(4) Gross Receipts.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 488 shall apply.

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

"(A) Electronic series.—The term ‘electronic series’ means—

"(i) any dishwasher described in subsection (b)(1)(A), and

"(ii) any clothes washer described in subsection (b)(1)(B), and

"(iii) any refrigerator described in subsection (b)(1)(C),

"(B) Dishwasher.—The term ‘dishwasher’ means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

"(C) Clothes washer.—The term ‘clothes washer’ means a residential model clothes washer, including a residential style coin operated device.

"(4) Refrigerator.—The term ‘refrigerator’ means a residential model automatic defrost refrigerator-freezer which has an internal refrigerator chamber volume of not less than 16 cubic feet.

"(5) MEF.—The term ‘MEF’ means the modified energy factor established by the Department of Energy for compliance with the energy conservation standards promulgated by the Department of Energy for compliance with the Federal efficiency standard.

"(6) EF.—The term ‘EF’ means the energy factor established by the Department of Energy for compliance with the Federal energy efficiency standard.

"(7) WF.—The term ‘WF’ means Water Factor as determined by the Secretary of Energy.

"(8) Produced.—The term ‘produced’ includes manufactured.


"(g) Special rules.—For purposes of this section—

"(1) In General.—Rules similar to the rules of subsections (c), (d), and (e) of section 32 shall apply.

"(2) Controlled group.—

"(A) In General.—All persons treated as a single employer under subsection (a) or (b) of section 3124 (m) or (o) of section 414 shall be treated as a single producer.

"(B) Inclusion of foreign corporations.—For purposes of subparagraph (A) of subsection (b) of section 4363, in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(3) Verification.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary of Energy determines necessary.

"(b) Conforming Amendment.—Section 38(b) of the Internal Revenue Code of 1986 (relating to credits; credit) is amended by striking ‘plus’ at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ‘plus’, and by adding at the end the following new paragraph:

"(28) the energy efficient appliance credit determined under section 45J(a)."

(c) Sec. 45J. Energy efficient appliance credit. —The table of sections for part D of IV of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"Sec. 45J. Energy efficient appliance credit."
Sec. 5. Special Account for Distribution to Public Television Stations.

(a) Reservation.—An amount equivalent to 21 percent of the interest derived from the investment proceeds referred to in section 2(b)(2) shall be reserved in a special account within the Trust Fund for distribution on a regular basis to those noncommercial educational television broadcast stations (as defined in section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k))) that are qualified to receive grants from the Corporation for Public Broadcasting pursuant to section 396(k)(6)(B) of such Act (47 U.S.C. 396(k)(6)(B)) and to the Public Broadcasting Service in partnership with those stations.

(b) Responsibility for Distribution.—The Director of the Trust shall—

(1) through a special contract, designate the Corporation for Public Broadcasting as the sole agent responsible for the distribution of funds under this section; and

(2) transfer the funds referred to in subsection (a) to the Corporation for Public Broadcasting on a regular basis.

(c) Grants.—In making the distribution referred to in subsection (a), the Corporation for Public Broadcasting shall utilize a competitive grant application process that is governed by criteria that ensures that funds are directed to the creation of locally delivered digital education and learning services and ensures that a diversity of licensee types and geographic service areas are adequately served. The Corporation for Public Broadcasting shall develop such criteria in consultation with public television licensees, permittees, and representatives designated by their national organizations.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise to introduce legislation, The Stewardship for our Coasts and Opportunities for Reliable Energy Act—SCORE Act—which will ensure that offshore energy development on the Outer Continental Shelf—OCS—continues to serve our interests, to create opportunities for new development on the OCS as well as the use of alternative resources such as renewable energy.

Since the energy frontier of the OCS was officially opened to significant oil and gas exploration in 1953, no single region has contributed nearly as much to our Nation’s energy production. Today, the OCS represents more than...
25 percent of our Nation’s natural gas production and more than 30 percent of our domestic oil production and it is estimated that 60 percent of the oil and natural gas still to be discovered in U.S. will come from the OCS.

An average of more than $5 billion in revenues from oil and gas production are returned to the federal treasury each year from the OCS—$145 billion since production began. That is the second biggest contributor of revenue to the Federal Treasury after income taxes.

But just as the Western frontier once represented a great unknown to our Nation’s policymakers, the impact and reality of the OCS seems lost in a time warp. While much of the OCS has been off limits for decades, technological advancements have developed in that time to better target the resources and dramatically reduce the environmental footprint. These innovations will continue to allow crucial exploration and production to take place but in an environmentally responsible way. For example, we have produced three times as much oil and gas more recently than we did 30 years ago.

In fact, the Minerals Management Service estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Serving America’s energy needs while being good stewards of the environment need not be mutually exclusive goals.

However, despite our technological prowess and responsible exploration, we have yet to fully realize the potential the OCS has to offer. Today only 2.5 percent of the 1.76 billion acres that make up the OCS are leased. Most of the Pacific Coast and the eastern Gulf of Mexico are off limits as is the entire Atlantic seaboard.

Almost one third of the area on the OCS that is currently leased is in the Central and Western Gulf of Mexico, off the coasts of Louisiana and Texas, where 98 percent of total OCS production occurs. However, we cannot continue to take without giving something back in return. A significant portion of OCS revenues must be returned to the coastal producing states off whose coasts they are generated.

The Mineral Leasing Act of 1920 shared revenues with states 50 percent of revenues from mineral production on Federal lands within that State’s boundaries. These funds are distributed to States automatically, outside the budget process and not subject to appropriations. In fiscal year 2004, the State of Wyoming received $264 million as a result of this law and the State of New Mexico received $356 million. However, there is no similar provision in law for coastal producing states to share federal oil and gas revenues generated on the OCS.

For both onshore and offshore production, the justification for sharing with the state is the same: the state serves as the platform which enables the Federal Government to support a basic element of our daily lives—turning on our lights, heating our homes and running our commuter trains. In light of the OCS’ vital contribution to our nation’s economy and national security, it seems only fair and logical that we should return a portion of these revenues to the few states that are providing this crucial supply of energy.

The SCORE Act would automatically distribute a significant portion of OCS revenues to the five coastal producing States without moratoria off their coasts Alaska, Texas, Louisiana, Mississippi and Alabama by basing each state’s production, with 35 percent of each State’s allocation directed to coastal counties and parishes.

When Hurricane Ivan struck back in September of last year, it should have been a wake up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt four months later. One can only imagine what the impact would have been had Ivan cut a more Western path in the Gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply.

Returning a portion of OCS revenues to coastal producing states is crucial to restoring and preserving the vital wetlands and the billions in energy investments they protect. It will also help further strengthen our national economy by sustaining our current energy supply and continuing to provide the platform for us to go further in our quest to develop domestic resources while attempting to reduce our reliance on foreign energy supplies.

In addition to ensuring that the vital offshore energy development that has served our Nation’s needs for 50 years can continue, the SCORE Act also seeks to establish opportunities for new development on the OCS.

The legislation would direct the Secretary of Interior to establish seaward lateral boundaries for all coastal States by regulation. Coastal States with a moratoria currently in place off their coasts would have the option, through their Governor with the consent of the State legislature, to explore the possibility of offshore energy development off their coasts.

These coastal States could petition the Secretary of Interior for a resource assessment of energy sources located within their seaward lateral boundaries. With these assessments in hand, the State legislature of the State could then determine whether to lease the area within their boundaries, but only beyond 20 miles from their coastline, be made available for leasing. If the Secretary permits leasing within the requesting State’s boundary, the State would qualify to receive a portion of revenues generated from any production that takes place within their seaward lateral boundary.

Finally, SCORE would provide the opportunity for innovative, alternative uses of the OCS, including renewable energy projects such as wind, wave and solar. A portion of revenues from this production would be shared with the State off whose coastline the production takes place.

Next week the Senate Energy and Natural Resources Committee, under the leadership of Chairman DOMENICI and Senator BINGAMAN, will begin marking up comprehensive energy legislation. I am hopeful that some aspects of the proposal I have laid out today will be included as part of the bill reported out of committee. I look forward to working with my colleagues on the Committee over the next few weeks to further discuss these concepts and make them a reality.

Quite simply, SCORE allows our country to continue to utilize the tremendous and vital natural resources of the OCS while also providing us the opportunity to further unlock the unlimited potential of this vast frontier. It is time to base our decisions on modern successes rather than out-dated worries.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes, to the Committee on Armed Services.

Mrs. CLINTON. Mr. President, today I seek introducing the Military Personnel Financial Services Education Act of 2005. Senator COLLINS, my colleague on the Armed Services Committee, has agreed to cosponsor this legislation. This bill will directly address a problem that has plagued military servicemen and women for years: a lack of general knowledge about the insurance and other financial services available to them. This deficiency in information has led to many of our brave men and women in uniform being taken advantage of by unscrupulous companies that have targeted and preyed on junior members of our military.

Last year, a series of articles in the New York Times uncovered a serious problem in the way many companies using misleading sales practices to sell expensive life insurance policies to Iraq-bound recruits and other uniformed personnel. These articles led to investigations by the Department of Justice, reports by the GAO, and legislation by Congress. Earlier this year, I joined with Senator ENZI to introduce the Military Personnel Financial Services Protection Act. That legislation goes a long way toward tracking unscrupulous companies, and eliminating investment schemes which take advantage of our men and women in uniform.

But we also need to address our more fundamental responsibilities to our
Section 1. Short Title
This Act may be cited as the “Military Personnel Financial Services Education Act of 2005”.

Title 2. Consumer Education for Members of the Armed Forces and Their Spouses on Insurance and Other Financial Services

(a) Education and Counseling Requirements.—
(1) In general.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

**992. Consumer education: financial services**

(1) Requirement for consumer education program for members.—(A) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

(A) financial services that are available under law to members;
(B) financial services that are routinely offered by private sector sources to members;
(C) practices relating to the marketing of private sector financial services to members;
(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and
(E) such other financial practices as the Secretary considers appropriate.

(2) Training under this subsection shall be provided to members as—

(A) a component of the members’ initial entry training;

(B) a component of each level of the members’ professional development training that is required for promotion; and

(C) a component of periodically recurring required training that is provided for the members at military installations.

(3) The training provided at a military installation under paragraph (2)(C) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

(b) Counseling for Members and Spouses.—(1) The Secretary concerned shall provide counseling on financial services to each member of the armed forces under the jurisdiction of the Secretary.

(2) The Secretary shall, upon request accompanied by a written certification by a financial services counselor under subsection (b)(2)(B), provide counseling to the member under paragraph (1). The Secretary may authorize allotment of pay to which the member is entitled under chapter 3 of title 37 of the United States Code to the individual rendering such counseling, or to the individual rendering such counseling with the assistance of a financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), as applicable.

(c) Life Insurance.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source or financial services counselor under subsection (b)(2)(B), the member, or spouse of the member, as applicable, is entitled to—

(A) receive counseling on the purchase of insurance from a private sector life insurer.

(b) Subject to subparagraph (A), a written certification described in subparagraph (A) may not be made with respect to a member’s authorization of allotment as described in subparagraph (A) until 7 days after the date on which the member’s authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

The commander of a member may waive the application of subparagraph (B) to a member for good cause, including the member’s imminent change of station.

(d) Financial Services Defined.—In this section, the term ‘financial services’ includes the following:

(1) Life insurance, casualty insurance, and other insurance

(2) Investments in securities or financial instruments.**
These provisions reflect the problems and deficiencies identified by DoD's own report. Specifically, the report concluded that DoD's current personal financial education programs were inadequate, noting particularly that the education provided enlisted personnel, who was "provided to junior officers." It is our belief that providing military personnel with a sound financial education and access to information is the best method of providing them and their families with the protections and safeguards they need.

While that report went much further in its recommendations, even recommending that such sales be barred, our legislation provides for moderate measures in the hope that we can make real progress on this matter without resorting to extreme measures that would unfairly punish the countless ethical insurance agents who responsibly serve the military life insurance market. Instead, our legislation would give our troops the tools to protect themselves against those who engage in these abusive and deceptive sales practices.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY): S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY): S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce two bills to expand access to college. I am pleased to be joined in this effort by Senators COLLINS, KENNEDY, and MURRAY.

We are slated to reauthorize the Higher Education Act this Congress, after being unable to do so in the 108th Congress. Over the course of this time, the discussions on higher education have not focused on proposals that would help the neediest students attend college. This is troubling, particularly as more and more students are being priced out of college, which shortchanges their future and that of our Nation.

An individual's climb up the economic ladder is directly related to the amount of education he or she receives. Given the strong correlation among educational attainment, employment, and wages, the cost of not going to college is just too high. And yet, too many college students are unprepared, underfunded, and overworked. Those who make it through are saddled by huge loans. But as reports such as Empty Promises by the Advisory Committee on Student Financial Assistance have shown, many more cannot afford the cost of college at all.

Even though there have been gains due to the Higher Education Act, the current approach to student aid is not enough to close the gaps in attendance between our lowest and highest income students or the gap between the aid low-income students receive and the actual cost of attendance. Indeed, about seven times as many students from high-income families graduate from college by age 24 as students from low-income families. Low-income, college-qualified high school graduates have an annual "unmet need" of $1,000 and rising in college expenses. A decline in real dollars spent on grants and sharp increases in the cost of college have been key causal factors of this unfortunate situation. Indeed, there has been a steep decline in the purchasing power of the Pell Grant, which was established by my predecessor, Senator Claiborne Pell, to ensure higher education was not an "unachievable dream." According to the State PIROs' Higher Education Project, the maximum Pell Grant covered 94 percent of average four-year public tuition costs in 1976. Today, the maximum Pell Grant of $4,050 covers only about 39 percent. Over the last 10 years, tuition and fees at public and private 4-year colleges rose 51 percent, respectively, (after adjusting for inflation), which is a more rapid growth rate than consumer prices. Students have felt the bite as states have drastically cut funding for public colleges. In 2008, the largest number of students in our history will graduate from high school. Another demographic reality is that our nation will need to ensure a steady stream of replacement workers as college-educated baby boomers begin to retire in increasing numbers.

This crisis calls out for action. An educated citizenry and a world class workforce should be a national imperative. Our nation cannot afford to lose out on the countless returns from a robust education investment.

Today we introduce two bills to expand college access.

The first bill, the ACCESS—Accessing College through Comprehensive Educational Assistance Partnership—Act, focuses on a program I have long worked with Senator COLLINS and the other cosponsors to save, reinvigorate, and fund the Leveraging Educational Assistance Partnership or LEAP program. LEAP is the only program in which the federal and state governments are partners in extending higher education opportunities to financially needy students.

The ACCESS Act forges a new Federal incentive for States to do even more to help low-income students by creating within LEAP an access and persistence partnership program. States will be rewarded—via higher
levels of federal matching dollars— for creating vibrant partnerships with colleges, early intervention and mentoring programs, foundations, and businesses and providing cohesion and coordination among these entities. Access to these partnerships has three main goals: to provide low-income students with a grant that fills the gap of their unmet need; to increase participation of low-income students in early information, intervention, mentoring, and outreach programs; and to provide early notification to low-income students of their eligibility for financial aid. Research has shown that successful college access programs are those that offer early intervention and mentoring services coupled with early information about estimated financial aid awards and adequate grant funding to make the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus more likely to enroll in college and persist to degree completion.

The second bill we introduce today, the FAFSA—Financial Aid Form Simplification Act—contains several key components designed to make the college application process both simple and certain. As the advisory committee’s recent report, The Student Aid Gauntlet, has shown, students today face a complex and burdensome application process. Our legislation would simplify this process by allowing more students to qualify for an Automatic-Zero—autozero—Expected Family Contribution by aligning its eligibility with the standards of other federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms is unnecessary. They already meet the eligibility level for Pell Grants is a burden we should ease.

In a similar vein, the legislation establishes a short, paper EZ-FAFSA application form for students qualifying for the auto-zero; phasing out the printing of the long paper form and utilizes the savings to bridge the digital divide for students without web access; requires the utilization of smart technology to create a tailored web-based application process; and reduces the burden of the complex financial aid application process. Our legislation will simplify this process by allowing more students to qualify for an Automatic-Zero—autozero—Expected Family Contribution by aligning its eligibility with the standards of other federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms is unnecessary. They already meet the eligibility level for Pell Grants is a burden we should ease.

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share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

(3) APPLICATION FOR ALLOTMENT.—

(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

(i) A description of the State’s plan for using funds awarded under this section;

(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). Matching funds from philanthropic organizations used to provide early information and intervention, mentoring, or outreach programs may be in cash or in kind. The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with non-profit organizations or community-based organizations that match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State’s matching obligation under this clause.

(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

(v) Assurances that the State has a method in place, such as acceptance of the automatic linkage or family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are available.

(B) LEVERAGING EDUCATIONAL ASSISTANCE RESOURCES OF PARTNERS—(I) Leveraging Educational Assistance Partnership Grants; and—

(II) Funded by the Federal Government and the State.

(2) STATE AGENCY.—The State agency that submits an application for a State under section 415(a) shall be the same State agency that submits an application under paragraph (1) for such State.

(3) ALLOTMENT.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

(A) not less than 1 public and 1 private degree-granting institution of higher education that are located in the State;

(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and—

(C) not less than 1—

(i) philanthropic organization located in, or that provides funding in the, State; or—

(ii) private corporation located in, or that does business in, the State.

(4) RULES OF PARTNERS.—(A) A State agency that is in a partnership receiving an allotment under this section—

(i) shall—

(1) serve as the primary administrative unit for the partnership;

(2) provide or coordinate matching funds, and coordinate the amount of such funds under this clause; and—

(3) encourage each institution of higher education in the State to participate in the partnership;—

(4) may make determinations and early notifications of assistance as described under subsection (d)(2); and—

(V) annually report to the Secretary on the partnership’s progress in meeting the purpose of this section; and—

(iii) may provide early information and intervention, mentoring, or outreach programs.

(5) ROLES OF PARTNERS. —(A) ROLE OF THE STATE.—(I) In general.—A State shall—

(1) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;—

(2) provide services to students who receive an access and persistence grant under this section and are enrolled at such institution; and—

(3) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency;

(iv) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

(B) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide services to students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

(C) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

(D) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—

(A) ESTABLISHMENT OF PARTNERSHIP.—

(i) shall establish a partnership to award access and persistence grants to low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, in amounts that are consistent with the amount received by the student.

(ii) shall establish a partnership to provide students with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

(V) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

(IV) a nonbinding estimate of the total amount of financial aid a low-income student who is eligible for an access and persistence grant and other student aid programs;

(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

(VI) information on any additional requirements (such as a student pledge detailing higher education in the State that a student may receive for receipt of an access and persistence grant under this section; and—

(7) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership;

(I) Partnership with institutions serving the majority of students in the State. —In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership;

(2) EARLY NOTIFICATION.—

(A) IN GENERAL.—Each State receiving an allotment under this section shall annually report to the Secretary, on or before September 30, the following:

(i) the number of students served by the State in the fiscal year;

(ii) the amount of financial assistance provided to students served by the State in the fiscal year;

(iii) the amount of financial assistance provided to students served by the State in the fiscal year;

(iv) the number of students served by the State in the fiscal year; and—

(iii) the number of students served by the State in the fiscal year; and—

(V) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

(IV) a nonbinding estimate of the total amount of financial aid a low-income student who is eligible for an access and persistence grant and other student aid programs;

(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;
“(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

(1) a determination of the student’s financial need at the time of enrollment; and

(2) the student’s enrollment at an institution of higher education that is a partner in the partnership;

(III) other aid received by the student at the time of the student’s enrollment at an institution of higher education that is a partner in the partnership;

(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that eligibility at the time of the student’s enrollment student meets not less than 1 of the following:

(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

(i) Has an expected family contribution equal to zero (as described in section 479) or

(ii) Has an expected family contribution not less than the amount expended per student that receives an access and persistence grant under this section, in a partnership described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1997 (or any such assistance provided under this subpart).

(iv) INCAPACITY ANALYSIS.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student that receives an access and persistence grant under the State for the activities for the second preceding fiscal year.

(v) SPECIAL RULE.—Notwithstanding subsection (b), for purposes of determining a State’s share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1997 (or any such assistance provided under this subpart).

(vi) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to apply section 415C of the Higher Education Act of 1965 (20 U.S.C. 1070c-3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1087w-13) is amended—

(1) in paragraph (4), by striking “and” after the semicolon; and

(2) in paragraph (5) and inserting the following:

“(3) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and”.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Financial Aid Form for Access and Access Act.”

SEC. 2. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087w-13) is amended—

(1) in subsection (b)—

(A) in paragraph (1)–

(I) by striking subparagraph (A)(i) and inserting the following:

(i) the student’s parents—

(I) files, or is eligible to file, a form described in paragraph (3);

(ii) certifies that the student (and the student’s spouse, if any) is not required to file an income tax return; and

(iii) is a dislocated worker; or

(B) in paragraph (3), by striking “A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files” and inserting “In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files”;

(2) in subsection (c)—

(A) in paragraph (1)—

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

(A) the student’s parents—

(I) file, or are eligible to file, a form described in subsection (b)(3);

(ii) certify that they are not required to file an income tax return;

(iii) 1 of whom is a dislocated worker; or

(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) in paragraph (2)—

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

(A) the student and the student’s spouse, if any—

(I) files, or is eligible to file, a form described in subsection (b)(3);

(ii) certifies that the student (and the student’s spouse, if any) is not required to file an income tax return; and

(iii) is a dislocated worker; or

(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(C) by striking the flush matter at the end and inserting the following:

“The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to the increase in the Consumer Price Index, as defined in section 478(g);”;

(d) DEFINITIONS.—In this section—

(1) DISLOCATED WORKER.—The term ‘dislocated worker’ has the same meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

(2) MEANS-TESTED BENEFIT PROGRAM.—The term ‘means-tested Federal benefit program’ means a mandatory spending program that provides assistance to an individual or family based on income level and other requirements.
program of the Federal Government in which eligibility for the program’s benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual seeking the benefit, and includes the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), the food stamp program of the Food Stamp Act of 1977 (7 U.S.C. 1921 et seq.), and the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ff(a)) is amended in the third sentence by inserting “a family member who is a disabled worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))” after “recent unemployment of a family member,”.

(c) REPORTING REQUIREMENTS.—(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087ff(b)(1)(A), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) COMMON FINANCIAL AID FORM PROGRAM.—The Secretary shall evaluate every 3 years the impact of including whether a student or parent received benefits under a means-tested Federal benefit program (as defined in section 479(c) of the Higher Education Act of 1965 (20 U.S.C. 1087ff(d))) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ff(b) and (c)).

SEC. 3 IMPROVING PAPER AND ELECTRONIC FORMS

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ff(a)) is amended by adding at the end the following:

“(3) SIMPLIFIED FORMS.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the EZ FAFSA described in section 483(a)(2)(B) and notify families meeting the requirements of subsection (b) that such families may use the simplified application form described in section 483(a)(3)(B).”

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND TESTING.—(a) Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1087ff) is amended—

(1) in subsection (a),—

(A) in paragraph (1),—

(i) by redesignating paragraphs (1), (2), and (5);

(ii) by redesignating paragraphs (2), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(iii) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

“(1) IN GENERAL.—

(A) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of students for financial assistance under parts A through E (other than part IV of part A). These forms shall be made available to applicants who use paper and electronic forms and shall be referred to (except as otherwise provided in this subsection) as the ‘Free Application for Federal Student Aid’ or FAFSA.

(B) EARLY ANALYSIS.—The Secretary shall permit an applicant to complete a form described in this subsection prior to enrollment in order to obtain an estimate from the Secretary of the applicant’s expected family contribution, as defined in section 473. Such estimate shall include information submitted on a form described in this subsection completed prior to enrollment using the process described in paragraph (4).”

“(2) PAPER—

(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format as provided in paragraph (1).

(B) EZ FAFSA.—(i) IN GENERAL.—The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

(ii) Paper—

(A) IN GENERAL.—The EZ FAFSA shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements of subparagraph (B) and common forms for applicants who do not meet the requirements of subparagraph (B).

(iii) REDUCED DATA REQUIREMENTS.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (11).

(iv) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

(v) PHASING OUT OF PAPER FAFSA.—Not later than 3 years after the date of enactment of this title, the Secretary shall phase out the printing of the paper FAFSA for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of paragraph (1) of the EZ FAFSA, as provided in paragraph (2).

(vi) AVAILABILITY OF FULL PAPER FAFSA.—

(A) IN GENERAL.—Prior to and after the phaseout, the Secretary shall maintain an online printable version of the paper forms described in paragraphs (3) and (4) and the EZ FAFSA.

(B) SUBMISSION OF FORMS.—The Secretary shall maintain an online printable version of the paper forms described in paragraphs (3) and (4) and the EZ FAFSA.

(C) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—

(i) IN GENERAL.—The Secretary shall utilize the full paper Free Application for Federal Student Aid and moving more applicants to the electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

(ii) REQUIREMENT.—The Secretary shall report annually to the Committee on Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the progress that is being made to eliminate the digital divide and on the phaseout of the full paper Free Application for Federal Student Aid described in subparagraph (A). The report shall include a description of the progress that is being made to eliminate the digital divide on independent students, adults, and dependent students, including students completing the form described in this paragraphs (3) and (4).

(iii) ELECTRONIC FORMAT.—

(A) IN GENERAL.—The Secretary shall produce, distribute, and process common financial reporting forms in electronic format (such as through a website called FAFSA on the Web) to meet the requirements of paragraph (1).

(B) PHASING OUT—

(A) IN GENERAL.—The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of subparagraph (B) and common electronic forms for applicants who do not meet the requirements of subparagraph (B) and common forms for applicants who do not meet the requirements of subparagraph (B).

(iv) TESTING.—The Secretary shall conduct appropriate field testing on the electronic forms described in clause (i) for information technology that is made available to the States for State financial assistance, as provided in paragraph (5). The Secretary may require an applicant to complete data required by any State other than the applicant’s State of residence.

(v) STREAMLINED FORMAT.—The Secretary shall use, to the full extent practicable, all available technology to ensure that a student answers only the minimum number of questions necessary.

(b) SIMPLIFIED APPLICATION.—

(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(b).

(iii) STATE DATA.—The Secretary shall include on the common electronic forms described in clause (i) space for information that is required of an applicant to be eligible for State financial assistance, as provided in paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant’s State of residence.

(iv) TEST.—The Secretary shall conduct field testing on the simplified electronic application form.

(v) TESTING.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the development of the forms required under this section.

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“(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 525a of title 5, United States Code, and that any entity using the electronic version of the forms described by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the confidentiality and integrity of the information, and to protect against unauthorized access, or unauthorized uses or disclosures of the information provided, the electronic version of the form, including both paper and electronic reapplication processes, consistent with State requirements for need-based State aid.

(1) An applicant who applies for financial assistance for purposes of determining eligibility for State need-based grant aid; and

(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

(11) No person, commission, or other entity shall require to award need-based State aid and other application requirements that the States may impose.

(12) FEDERAL REGISTER NOTICE.—The Secretary shall publish, on a semi-annual basis, notice in the Federal Register requiring each State agency to inform the Secretary:

(i1) if the agency is unable to permit applicants to submit any part of the data described in paragraphs (2)(B) and (3)(B); and

(ii1) of the State-specific data that the agency requires for delivery of State need-based financial aid.

(2) STATE NOTIFICATION TO THE SECRETARY.—

(i) IN GENERAL.—Each State shall notify the Secretary:

(ii) whether the State permits an applicant to file a form described in paragraph (2)(B) for purposes of determining eligibility for State need-based grant aid; and

(iii) of the State-specific data that the State requires for delivery of State need-based financial aid.

(3) No permission.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) for purposes of determining eligibility for State need-based grant aid—

(1) the State shall notify the Secretary of the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

(2) By January 1 of a student’s planned year of enrollment to the extent practicable—

(a) enable the student to submit a form described under this subsection in order to meet the filing requirements of this section and receive aid from programs under this title and under section 415C; and

(b) initiate the processing of a form under this subsection submitted by the student.

(3) By adding at the end the following:

“(D) STATE REQUIREMENTS.

(1) A State shall require applicants to complete any data previously required by the Secretary pursuant to this paragraph. The States and institutional financial aid in such subsection in order to meet the filing requirements of this section and receive aid from programs under this title and under section 415C, and other aid provided by participating institutions through the submission of an application as described in clause (i).

(B) PURPOSE.—The purpose of the demonstration program under this paragraph is to measure the benefits, in terms of student aspirations and plans to attend college, and adverse effects of implementing a financial aid application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment on an institution of higher education.

(C) EXAMPLES.—The Secretary, in consultation with States, institutions of higher education, and agencies and organizations that assist students in obtaining financial assistance, the data that can be updated from the previous academic year’s application, and that are necessary to determine eligibility under such subparagraph, and

(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such subparagraph,

(1) the cost of financial aid programs described in subparagraph (A) and (B) of paragraph (2).

(2) APPLICANTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form prescribed by the Secretary pursuant to this subsection. No student may receive financial assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall remain under the control of the provider.

(3) Lack of notification by the State.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

(i) permit residents of that State to complete the forms described in paragraphs (2)(B) and (3)(B); and

(ii) not require any resident of that State to complete any data previously required by that State.

(E) RESTRICTION.—The Secretary shall not require applicants to complete any non-financial data or financial data that are not required by the applicant’s State agency, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

(2) APPLICANTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms.

(1) The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form prescribed by the Secretary pursuant to this subsection. No student may receive financial assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall remain under the control of the provider.

(2) Effective implementation of the demonstration program on program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment on an institution of higher education.

(3) Implement the feasibility, benefits, and adverse effects of implementing a data match with the Internal Revenue Service.

(4) Identify whether receiving final financial aid awards not later than the fall of a student’s senior year positively impacts the college aspirations and plans of such student.

(5) Measure the impact of using income information from the year prior to the year prior to enrollment on—

(i) eligibility for financial aid under this title and for other institutional aid; and

(ii) the cost of financial aid programs under this title.

(6) Effectively evaluate the benefits and adverse effects of the demonstration programs on program costs, integrity, distribution, and delivery of aid.

(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions that agree to participate in the demonstration program under this paragraph. The States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions interested in participating in the demonstration program under this paragraph.
The Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A, and designation of which States will be participating States of the opportunity to participate in the demonstration program.

(i) Participating States and institutions of higher education shall—

(a) providing students to apply for financial aid as provided under this title during such students’ junior year of secondary school using information from the year prior to the year prior to enrollment; and

(b) award final financial aid awards to participating students based on the application provided under the demonstration program.

(ii) Participating States and institutions of higher education shall not require students participating in the demonstration program to complete an additional application in the year prior to enrollment in order to receive State aid under section 415C and any other institutional aid provided under this title.

(iii) Financial aid administrators at participating institutions of higher education shall be allowed to use such administrators' discretion in awarding financial aid to participating students, as outlined under sections 479A and 486(d).

(iv) DATA MATCH WITH THE INTERNAL REVENUE SERVICE.—The Secretary shall include in the demonstration project a data match with the Internal Revenue Service in order to verify data provided by participating students and gauge the feasibility of implementing such a data match for all students applying for aid under this title.

(v) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program in order to measure the program’s benefits and adverse effects as required under subparagraph (B).

(vi) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination by the Secretary that the States involved in the demonstration program will not be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students of the opportunity to participate in the demonstration program and of the participation requirements.

(vii) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance, established under section 491, on the design and implementation of the demonstration program and on the evaluation described in paragraph (F).

(2) by amending subsection (d), as redesignated by paragraph (5), to read as follows:

(a) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

(i) PREPARATION AUTHORIZED.—Nothing in this Act shall limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

(ii) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, address, employer’s address, and social security number of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such information under a signed agreement or contract with the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such information under a signed agreement or contract with the preparer.

(iii) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

(A) LOWER-INCOME STUDENTS.—The Secretary shall make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.), benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits under such programs as the Secretary shall determine, of such students’ potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A, and designation of which States will be participating States of the opportunity to participate in the demonstration program.

(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other organizations cooperating on independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

(C) SECONDARY SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, make special efforts to notify students in their junior year of secondary school the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).

(3) in subsection (c), by striking “Labor and Human Resources” and inserting “Health, Education, Labor, and Pensions”; (1) by striking subsection (b); (5) by redesignating subsection (e) as subsection (d); and (6) by amending subsection (d), as redesignated by paragraph (5), to read as follows:

(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

(1) PREPARATION AUTHORIZED.—Nothing in this Act shall limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer’s address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

(3) SPECIAL RULE.—Nothing in this Act shall modify any regulation of the Department of Education under part A relating to the collection of information, including Internal Revenue Service tax forms, in providing consultative and preparation services in the completion of the common financial reporting forms described in subsection (a). Any regulation of the Department of Education under part A relating to the collection of information, including Internal Revenue Service tax forms, in providing consultative and preparation services in the completion of the common financial reporting forms described in subsection (a) shall be in compliance with the requirements of this section.

(4) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language) of the identity of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such information under a signed agreement or contract with the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such information under a signed agreement or contract with the preparer.

(B) refrain from producing or disseminating any other form or product produced by the Secretary under subsection (a); and

(C) not charge any fee to any individual student or any other institutional aid provided under this title upon completion and verification of a form under subsection (b) or (c) of section 479.

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by section 2, is further amended by adding at the end the following:

(6) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide an individual with timely and accurate information to the general public. The information provided shall include specific instructions on completing the EZ FAFSA, and other appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 485 of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall test and implement, to the extent practicable, a toll-free telephone-based application system to permit applicants who are eligible to utilize the EZ FAFSA described in section 485(a) over such system. The Secretary shall report to the Committee on Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives, not later than 60 days after the date of enactment of this Act, on the implementation of the toll-free application and information system.

(d) MASTERCALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)(1)(B)) is amended by adding at the end the following:

(6) VERIFICATION OF STUDENT ELIGIBILITY.—(A) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student’s financial aid application, including the determination of which States will be participating States of the opportunity to participate in the demonstration program, to the extent practicable, to simplify the verification process. The report shall specifically address steps taken to—

(A) reduce the burden of verification on students who are selected for verification at multiple institutions;
“(B) reduce the number of data elements that are required to be verified for applicants meeting the requirements of subsection (b) or (c) of section 478, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 478 are subject to verification;
(C) reduce the burden and costs associated with verification for institutions that are eligible to participate in Federal student aid programs under this title; and
(D) increase the use of technology in the verification process.”

SEC. 4. ALLOWANCE FOR STATE AND OTHER TAXES.

Section 478(b) of the Higher Education Act of 1965 (20 U.S.C. 1087tr(g)) is amended to read as follows:

“(g) STATE AND OTHER TAX ALLOWANCE.

(1) ENHANCED.—Notwithstanding any other provision of law, the annual updates to the allowance for State and other taxes in the tables used in the Federal Need Analysis Methodology to determine a student’s expected family contribution for the award year 2005-2006 under part F of title IV, published in the Federal Register on Thursday, September 22, 2005 (69 Fed. Reg. 76926), shall not apply to a student to the extent the updates will reduce the amount of Federal student assistance for which the student is eligible.

“(2) NATIONAL TAX ALLOWANCE.

For each award year after award year 2005-2006, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury’s Statistics of Income file and determination of the percentage of income that each State’s taxes represent. The Secretary shall phase-in the State and other tax allowances from the revised table for an award year proportionately over a period of time not less than 2 years if a revised table was not published in the Federal Register during the previous award year.

“(3) AGREEMENT.—The Secretary is authorized to enter into agreement with the Commissioner of the Internal Revenue Service to develop the data required to revise the table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2).”

SEC. 5. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087ggg(2)(D)) is amended to read as follows:

“(D) $9,000.”

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087ppp(1)(A)(iv)) is amended to read as follows:

“(iv) $10,000 for single or separated students;
(II) $15,000 for married students where both are enrolled pursuant to subsection (a)(2); and
(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2).”

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qqq(4)) is amended to read as follows:

“(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table described by the Secretary under section 478):

Family Size

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
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<td>1 Students</td>
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<td>$15,230</td>
<td>$12,860</td>
<td>$10,480</td>
<td>$8,100</td>
</tr>
<tr>
<td>2 Students</td>
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<td>$30,460</td>
<td>$25,760</td>
<td>$21,060</td>
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</tr>
<tr>
<td>3 Students</td>
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<td>$47,040</td>
<td>$41,340</td>
<td>$35,640</td>
<td>$29,940</td>
</tr>
<tr>
<td>4 Students</td>
<td>$70,320</td>
<td>$64,620</td>
<td>$58,920</td>
<td>$53,220</td>
<td>$47,520</td>
</tr>
<tr>
<td>5 Students</td>
<td>$87,900</td>
<td>$82,200</td>
<td>$76,500</td>
<td>$70,800</td>
<td>$65,100</td>
</tr>
</tbody>
</table>

NOTE: For each additional family member, add $2,500.

For each additional college student, subtract $2,500.

SEC. 6. SIMPLIFICATION FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.

(a) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vvv(d)) is amended to read as follows:

“(d) INDEPENDENT STUDENT.—

(1) DEFINITION.—The term ‘independent’, when used with respect to a student, means any individual who—
(A) is 24 years of age or older by December 31 of the award year;
(B) is an orphan, a foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;
(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;
(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1)) or is currently serving on active duty in the Armed Forces;
(E) is a graduate or professional student;
(F) is a married individual;
(G) has legal dependents other than a spouse; or
(H) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

“(2) SIMPLIFYING THE DEPENDENCY OVERVIEW PROCESS.—Nothing in this section shall prohibit a financial aid administrator from making a determination of independence, as described in paragraph (1)(H), based upon a determination of independence previously made by another financial aid administrator in the same award year.

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SIMILAR CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1087aa(a)) is amended by adding at the end the following:

“(13) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a dependent student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d), nothing in this section shall prohibit the Secretary from—
(A) allowing such student to—
(i) indicate the student’s request for a documented determination of independence on an electronic form developed pursuant to this subsection; and
(ii) submit such form for preliminary processing account under section 530 of such Code; or
(B) collecting and processing on a preliminary basis data provided by such a student using the electronic forms developed pursuant to this subsection; and
(C) distributing such data to institutions of higher education, guaranty agencies, and States for the purposes of processing loan application forms and documenting need and eligibility for institutional and State financial aid awards on a preliminary basis, pending a documented determination of independence by a financial aid administrator.

(2) TREATMENT OF PREPAYMENT PLANS UNDER STUDENT FINANCIAL AID NEEDS ANALYSIS.

(a) DEFINITION OF ASSETS.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vvv(f)) is amended—

(1) in paragraph (1), by inserting ‘‘qualified education benefits, except as provided in subparagraph (2),’’ after ‘‘tax shelters,’’;
(2) by redesignating paragraph (2) as paragraph (4); and
(3) by inserting after paragraph (1) the following:

“(2) A qualified education benefit shall not be counted as an asset of a dependent student for purposes of section 475. The value of a qualified education benefit for purposes of determining the assets of parents or an independent student shall be—

(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit;
(B) the current balance of any account that is established as a qualified education benefit for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account.

(3) In this subsection, the term ‘qualified education benefit’ means—

(I) a qualified tuition program (as defined in section 529(b)(1) of the Internal Revenue Code of 1986) or another prepaid tuition plan offered by a State; or
(II) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

(b) DEFINITION OF OTHER FINANCIAL ASSISTANCE.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vvv(j)) is amended—

(1) in the heading, by striking ‘‘Tuition Prepayment Plans’’;
(2) in paragraph (2), by striking paragraph (2);
(3) in paragraph (3), by inserting ‘‘, or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code’’ after ‘‘1986’’; and
(4) by redesignating paragraph (3) as paragraph (2).

(c) TOTAL INCOME.—Section 480(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087aa(a)(2)) is amended to read as follows:

“(2) (A) the refund value of any tuition credits or certificates purchased under a qualified education benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), no portion of any tax
credit taken under section 25A of the Internal Revenue Code of 1986, and no distribution from any qualified education benefit defined in subsection (f)(5) that is not subject to Federal income tax shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act."

**SEC. 8. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.**

Section 91 of the Higher Education Act of 1965 (20 U.S.C. 1088) is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" after the semicolon;

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

(C) by adding at the end the following:

"(D) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and"

"(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and understanding of need-based student assistance available to low- and moderate-income students;"

(2) in subsection (d)—

(A) in paragraph (6), by striking ", but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;"

(B) in paragraph (8), by striking "and" after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

"(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and"

(3) in subsection (j)—

(A) in paragraph (6), by striking "and" after the semicolon;

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

(C) by adding at the end the following:

"(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional processes, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families;" and

(4) in subsection (k), by striking "2004" and inserting "2011".

By Ms. CANTWELL (for herself, Mr. Jeffords, and Mrs. Clinton):

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, at the end of 2002, the Maritime Transportation Security Act became law.

I was a member of the conference committee on that bill, and I think it was a good first step in improving security at our Nation’s ports.

However, new threats, such as the creation of national and regional maritime transportation/port security plans to be approved by the Coast Guard; better coordination of Federal State, local, and private enforcement agencies; and the establishment of a grant program for port authorities, waterfront facilities operators, and State and local agencies to provide security infrastructure improvements.

The problem with the bill was that it did not have enough guaranteed funding mechanism.

As a result, we are underfunding port security. Since the passage of the Maritime Transportation Security Act, the Department of Homeland Security has awarded approximately $252 million in port security grants over time.

The Coast Guard has estimated a need for $5.4 billion over 10 years for port facility upgrades, and $7.3 billion over 10 years for all port security. At the same time, the Administration only requested $260 million for infrastructure protection in fiscal year 2006, and this meager figure does not even specify a dedicated portion for port security grants.
With over 40 percent of the Nation’s goods imported through California’s ports, a terrorist attack at a California port would not only be tragic but would be devastating for our Nation’s economy.

So, today, I am reintroducing a bill to provide more funding to the ports. Specifically, it will create a Port Security Grant Program in the Department of Homeland Security; provide $800 million per year for 5 years in grant funding; and—this is very important to California—allow the Federal Government to help finance larger multi-year projects similar to what is done with many of our airports for aviation security.

I hope that the Senate will act on this bill. Now is not the time to slow down or delay our efforts to increase and improve transportation security. The job is not done, and it must be done.

By Mr. McCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, after more than 5 months of work, I am pleased to be joined by Senators KENNEDY, BROWNBACK, LIEBERMAN, GRAHAM, and SALAZAR in introducing the Secure America and Orderly Immigration Act. This bipartisan, comprehensive immigration reform legislation is designed to fix our Nation’s broken immigration system. This landmark legislation would bring common sense to the current system and promote our national security interests. I am equally pleased by the effort of Congressmen KOELKE, FLAKE, and GUTIERREZ who are introducing the House companion bill.

While in the previous years we worked independently on immigration reform legislation, we are coming together today to introduce what we believe is groundbreaking, comprehensive legislation. Over a year ago, the President laid out a framework for what comprehensive immigration reform should look like. We have used the President’s framework to craft this package and I applaud the President for his leadership on this issue.

The simple fact is that America’s immigration system is broken. Recent vigilante activities along the southwestern border have shown that the current situation is not sustainable. Americans are frustrated with our lack of border security and our inability to control illegal immigration. We have spent billions of dollars on border enforcement. We have sent more, but still not enough, Federal agents to the border equipped with sophisticated technology. We have worked to harden the border; we’ve passed the Border Patrol in 2004. Fifty-one percent of those were caught in Arizona. The Border Patrol is currently apprehending over 1,000 undocumented immigrants a day in Arizona. According to the FBI, an increasing number of these individuals are OTMs, Other Than Mexicans, from “countries of interest.”

Homeland security is our Nation’s number one priority, and this legislation includes numerous provisions that together will make our nation more secure. This bill includes provisions to strengthen border security, both on our side of the border and throughout this hemisphere. Through the establishment of a new electronic employment verification system, the bill will create a more secure mechanism to better enforce our nation’s immigration laws within our borders. Additionally, the bill enhances the authority of the Department of Labor and the Department of Homeland Security to conduct random audits to verify that employers are holding up their end of the bargain. And if they aren’t, they face double fines.

Make no mistake, this is not an amnesty bill. We want to reward law-breakers, and any accusations to the contrary are patently untrue. This bill recognizes the problems inherent in the current system and provides a logical and effective means to address these problems. The reality is, there are an estimated million undocumented people living and working in this country. It would be impossible to identify and round up all 10 to 11 million of the current undocumented, and if we did, it would ground our Nation’s economy. The House bill adopted by Senator BROWNBACK have been invaluable to this effort. I would also like to thank Senator LUJAN, who allowed us to incorporate critical international border enforcement provisions from his legislation, the New American Cooperative Security Act.

Through the collective efforts of a wide range of bipartisan interests in both Houses of Congress, not to mention immigration advocacy groups, representatives of our Nation’s businesses, and several labor unions, this comprehensive legislation provides a meaningful direction for how our immigration system should be reformed, and our border security strengthened.

I look forward to working with all interested parties in the important and necessary effort to once and for all reform our broken immigration system. Mr. KENNEDY. Mr. President, it’s an honor to join Senator McCaIN and Congressmen GUTIERREZ, KOELKE, FLAKE in introducing our bipartisan legislation to reform the Nation’s immigration laws. The status quo is unacceptable, and legislation is urgently needed to deal with all the inadequacies in our current law, to end the suffering of long-separated families imposed by the broken system, and to do so in a way that reflects current realities.

We must modernize our broken immigration system to meet the challenges of the 21st century. And we need policies that continue to reflect our best values as a nation—fairness, equal opportunity, and respect for the rule of law.

One of the mistakes of the past is to assume that we can control illegal immigration on our own. A realistic immigration policy must be a two-way street. Under our plan, America will do its part, but we expect Mexico and other nations to do their part, too, to replace an illegal immigration flow with regulated, legal immigration. Our bill will make our immigration policies more realistic and enforceable,
restore legality as the prevailing norm, and make it easier for immigrants to cooperate with local authorities. It will protect the labor rights of all workers, and create an even playing field for employers. It will strengthen our economy, control of our borders, and improve national security.

Much of the Nation’s economy today depends on the hard work and the many contributions of immigrants. Many industries depend heavily on immigrant labor. These men and women enrich our Nation and improve the quality of our lives. Yet, millions of today’s immigrant workers are not here legally. They and their families live shadow lives in constant fear of deportation, and easy targets for abuse and exploitation by unscrupulous employers and criminals as well. Many risk great danger, and even death, to cross our borders.

Our bill offers practical solutions to deal with these basic problems. It contains an earned legalization program for immigrants who have been working in the United States for at least 6 years, a way to reduce the enormous backlog of petitions to unify immigrant families through a revised temporary worker program. The bill also contains strict border security and enforcement provisions, and measures to ensure that other countries do their part by requiring them to help control the flow of their citizens to jobs in the United States.

We feel the bill is a realistic and practical solution to the complex immigration challenges facing the Nation for so long, and we’ve worked closely with as many interested groups as possible to make it fair to all.

Despite our compromises and bipartisan solutions, there are some who oppose these reforms. They misleadingly categorize our efforts as “immigrant amnesty.” They refuse to accept that these reforms simply create a legalization program for U.S. workers who have already been residing and working in this country a guaranteed citizenship, but an opportunity to continue working hard, start playing by the rules, and earn permanent residency.

And by bringing immigrants out of the shadows so they can earn a fair day’s pay for a fair day’s work, we are protecting American workers’ rights and wages, too.

The legal status must be earned by proving past work contributions, making a substantial future work commitment, and paying of $2,000 in penalties.

First, workers will receive temporary resident status, based on their past work contributions. To earn permanent resident status, they must work 6 years. Otherwise, they will be dropped from the program and required to leave the country.

It’s not an amnesty for them, because they have to earn it. We offer a fair deal: if they are willing to work hard for us openly, then we’re willing to do something fair for them. It is the only realistic solution.

If there’s any amnesty involved, it’s what they have today—an acquiescence in their presence, because countless businesses could not function without them since no American workers can be found to fill their jobs. To be eligible for legal status, applicants must prove minimal job security and work contributions. All will be required to undergo rigorous security clearances. Their names will be checked against the government’s criminal and terrorist databases, and the applicant’s fingerprints will be sent to the FBI for a thorough background check.

It’s long past time to put the underground economy above ground, and recognize the reality of immigrants in our workforce. It’s the only way to achieve effective enforcement rules to protect and strengthen our labor system, and to stabilize our workforce for employers.

Our bill allows long-term, tax-paying immigrant workers to apply for earned adjustment of status. Studies show that there are now millions of illegal immigrants working in the U.S., and it would be irresponsible to continue to ignore this hidden part of our economic landscape.

Our bill is also about fairness. It ensures that the rights of all workers are protected—that the rights to organize, to change jobs between employers, and to have fair wages, fair hours, and fair working conditions—cannot be denied. Through this legislation, America can be proud again that our Nation protects the safety and rights of all our workers.

Our legislation is also about protecting families. Family unity has always been a fundamental cornerstone of America’s immigration policy. Yet, millions of individuals today are waiting for immigrant visas to join with their families.

Our bill will allow these families to be reunited more quickly and humanely. It also removes and amends unnecessary obstacles in current law that separate families, such as the affidavit-of-support requirements and the rigid bars to admissibility. Our bill contains provisions that will expedite visas to reunite spouses and children of legal immigrants with their loved ones. It also provides measures to clear up the backlog of employment-based visas.

In addition, this bill recognizes the need for strong border protection and enforcement as part of immigration reform. It directs the Secretary of Homeland Security to develop and implement a National Strategy for Border Security to coordinate the efforts of Federal, State, local, and tribal authorities on border management and security. The Strategy will identify the areas most in need of enforcement and propose cost-effective ways to defend the border, including better ways of intelligence-sharing and coordination. It also includes plans to combat human smuggling.

To further improve border enforcement, the bill improves the security of Mexico’s southern border and assesses the needs of Central American governments in securing their borders. It provides a framework for better management, communication, coordination, and mutual assistance between our governments, and encourages other governments to control alien smuggling and trafficking, prevent the use and manufacture of fraudulent travel documents, and share relevant information.

The bill also encourages so-called circular migration patterns. It provides for unprecedented cooperation with the governments of the United States, Canada, Mexico, and other Central American countries on issues of migration. It asks foreign countries to enter into agreements with the U.S. to help control the flow of their citizens to jobs in the U.S., with emphasis on encouraging the re-integration of citizens returning home.

It also encourages the U.S. government to partner with Mexico to promote economic opportunity back home and reduce the pressure for its citizens to immigrate to the U.S. It encourages partnership between the U.S. and Mexico on health care, so that we are not unfairly burdened by the cost of administering health care to Mexican nationals.

Further, the bill mandates that immigration-related documents issued by DHS be biometric, machine-readable, and tamper-resistant. It creates an Employment Eligibility Confirmation System, so that employers can verify an employee’s identity and employment authorization, and an improved system to collect entry and exit data to determine the status of aliens after their arrival to and departure from the U.S. It protects against immigration fraud by improving regulations on who may appear in immigration matters.

Another important component of our bill is its State Criminal Alien Assistance Program, to reimburse states for the direct and indirect costs of incarcerating illegal aliens.

We know that these reforms are long overdue. The illegal workers here today are not leaving, and new ones continue to come in. A significant part of the workforce in many sectors of the economy, especially agriculture, is undocumented. Massive deportations are unwise, expensive, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Americans want and deserve realistic solutions to the very real immigration problems we face. They don’t want open borders, and they don’t want closed borders. They want smart borders, which mean fair and realistic immigration laws that can actually be enforced, immigration laws that protect our security, respect our ideals, and uphold our heritage as a Nation of immigrants.

America has been the Promised Land for generations of immigrants who
have found haven, hope, opportunity and freedom here. Immigrants have always been an indispensable part of our Nation. They have contributed immensely to our communities, created new jobs and whole new industries, served in our armed forces, paid their taxes, and help make America the continuing land of promise it is today.

It's obvious why the Nation's founders chose “E Pluribus Unum”—“out of many, one” as America's motto two centuries ago. These words, chosen by Benjamin Franklin, John Adams, and Thomas Jefferson, referred to their ideal that tiny quarreling colonies could be transformed into one Nation, with one destiny. That basic ideal applies to individuals as well. Our diversity is our greatest strength.

We are a Nation of immigrants, and we always will be, and our laws must be true to that proud heritage. Our bipartisan bill attempts to do that, and I look forward to working with the Administration and our colleagues on both sides of the aisle to enact it into law.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 136—DESIGNATING THE MONTH OF MAY 2005 AS “NATIONAL DRUG COURT MONTH”**

Mr. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

[S. Res. 136](#)

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality; Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders; Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and Whereas the drug court movement has grown from the 12 original drug courts in 1989 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as “National Drug Court Month”; and

(2) encourages the people of the United States to observe National Child Care Worthy Wage Day—

A) honoring early-childhood educators and programs in their communities; and

B) working together to resolve the early-childhood educator compensation crisis.

**SENATE RESOLUTION 137—DESIGNATING MAY 23, 2005, “NATIONAL DAY OF THE AMERICAN COWBOY”**

Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLEN, Senator MURkowski, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGHAM, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

[S. Res. 137](#)

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism; Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment; Whereas the cowboy continues to play a significant role in America's culture and economy; Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation; Whereas rodeo is the sixth most-watched sport in America; Whereas membership in rodeo and other organizations showcasing the livelihood of a cowboy transcends race and gender and spans every generation; Whereas the cowboy is an American icon; Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as “National Day of the American Cowboy”;

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

**SENATE RESOLUTION 139—EXPRESSING SUPPORT FOR THE WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA**

Mr. REID (for himself, Mr. FUNST and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

[S. Res. 139](#)

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics; Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics; Whereas the disposition of former Soviet troops stationed in Georgia, a newly independent country was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania; Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia; Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty; Whereas as part of such bilateral agreement, which is known as the “Istanbul Commitment”, on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to commence negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000; Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments; Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country; Whereas, during November 2003, the Georgian people, in the historic “Rose Revolution”, peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve