S. 967

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.

S. 984

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.

S. RES. 104

At the request of Mr. FEINGOLD, the names 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.

AMENDMENT NO. 670

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.

AMENDMENT NO. 681

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.

AMENDMENT NO. 704

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 704 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.

AMENDMENT NO. 708

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.

AMENDMENT NO. 732

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.

AMENDMENT NO. 733

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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

Mr. JEFFORDS. Mr. President, I have long been a proponent of measures that support historic preservation and economic development, and it is in keeping with that tradition that I rise today to introduce the National Historic Country Store Preservation Act of 2005.

This bill establishes a national program to support historic country store preservation that will aid in the revitalization of rural villages and community centers nationwide.

For many Americans, the country store invokes an image of a simpler life before much of this country became stamped with shopping malls and the ''big-box'' store.

But for thousands of people living in Vermont and for millions more living in rural communities across the United States, a visit to the local country store is a regular part of one's daily life.

They are centers of commercial activity in the towns they serve and embody the core of American small business entrepreneurship.

Many of these vital small businesses have been passed down among family members for generations. They are operated in buildings that have existed for as long as 150 years.

In fact, by one of the more vigorous standards in Vermont, a country store is only considered historic if it was built before the Winooski River Flood of 1927.

In my hometown of Shrewsbury, VT, the Pierce Store was the hub of our small community when my wife Liz and I settled there in 1963.

Run by the four Pierce siblings, Marjorie, Glendon, Marion and Gordon, the store was the place to go for a neighborly chat as much as for your milk and butter.

Children would get off the bus to buy their penny candy. Glendon Pierce could tell a great tale, and the political banter was endless.

With its antique cash register and woodstove, this was the quintessential general store.

Unfortunately, the Pierce Store closed its doors some years back and Shrewsbury lost a vital part of its identity.

There has been a recent attempt to revive the store, and I hope, for the sake of my community, it proves successful.

Despite their small relative size and market share, historic country stores have demonstrated incredible resiliency, surviving floods and fires, overcoming economic downturns, and reformulating their inventories to meet modern needs.

According to the Vermont Grocers' Association, country stores account for an estimated $55 million annually in retail sales in Vermont.

Nonetheless, competition from larger chain stores continues to increase.

When coupled with the additional cost and expertise required to maintain their aging structures and external facades, today's remaining country stores are hard-pressed to overcome these unprecedented challenges.

In Vermont, a handful of historic country stores close each year and the cumulative impact of those losses is experienced throughout the State.

The National Trust for Historic Preservation has listed the entire State of Vermont among America's ''Eleven Most Endangered Places,''

That is due to the threat that large-scale development poses to Vermont's small, independent retailers.

Yet country stores remain fixtures of Vermont's landscape. The Vermont Alliance of Independent Country Stores estimates that more than 115 historic country stores are scattered about the State.

Across the country, thousands of these establishments help to define the character of rural life.

These country stores draw local customers and tourists alike, offering convenient access to newspapers, groceries and local specialty foods in a typically neighborly atmosphere.

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 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.

My legislation authorizes the U.S. Economic Development Administration to make grants to national, State

and local agencies and non-profit organizations to support historic country store preservation efforts.

The bill promotes the study of best practices for preserving structures, improving profitability and promoting collaboration among country store proprietors.

In addition, 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:

S. 1011

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 ''National Historic Country Store Preservation Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) historic country stores are lasting icons of rural tradition in the United States;

(2) historic country stores are valuable contributors to the civic and economic vitality of their local communities;

(3) historic country stores demonstrate innovative approaches to historic preservation and small business practices;

(4) historic country stores are threatened by larger competitors and the costs associated with maintaining older structures; and

(5) the United States should—

(A) collect and disseminate information concerning the number, condition, and variety of historic country stores;

(B) develop opportunities for cooperation among proprietors of historic country stores; and

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

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNTRY STORE.—

(A) IN GENERAL.—The term ''country store'' means a structure independently owned and formerly or currently operated as a business that—

(i) sells or sold grocery items and other small retail goods; and

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

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

(2) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means—

(A) a State department of commerce or economic development;

(B) a national or State nonprofit organization that—

(i) is 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;

(C) a national or State nonprofit trade organization that—

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

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

(D) a 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. 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;

(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.

(3) 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.

(c) 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;

(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);

(2) ⅓ 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 TO 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 property delivered or assigned to the Secretary pursuant to loans made under section 6.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under section 6.

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

(d) 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.

(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) 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 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 demonstrated need for the purchase, construction, reconstruction, or renovation of the historic country store based on the condition of the historic country store;

(B) the age of the historic country store; and

(C) the extent to which the project to purchase, rehabilitate, or repair the historic country store includes collaboration among historic country store proprietors and other eligible applicants.

(c) REQUIREMENTS.—An eligible applicant that receives a loan for a project under this section shall comply with all applicable standards for historic preservation projects under Federal, State, and local law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act, $50,000,000 for the period of fiscal years 2006 through 2011, to remain available until expended.

(b) COUNTRY STORE ALLIANCE PILOT PROJECT.—Of the amount made available under subsection (a), not less than $250,000 shall be made available to carry out section 4(c).

SENATOR JAMES M. JEFFORDS SUMMARY

NATIONAL HISTORIC COUNTRY STORE PRESERVATION ACT OF 2005—MAY 12, 2005

The National Historic Country Store Preservation Act of 2005 authorizes the Secretary of the Economic Development Administration to establish a National Historic Country Store Preservation Program. This program will sponsor and conduct research on the economic impact of historic country stores and on best practices for improving profitability and addressing their historic preservation and small business development needs. The National Historic Country Store Preservation Program will offer small grants and revolving loans to State and local agencies, non-profit organizations, and historic country store proprietors for the purpose of historic country store preservation projects. In addition, the bill authorizes a Country Store Alliance Pilot Project to be conducted in Vermont. The bill authorizes $50 million to be appropriated for the period of fiscal years 2006 through 2010.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is time for a new effort in Congress to enact the Patients' Bill of Rights. The Senate has approved major bipartisan legislation to end the abuses of managed care and HMOs before, but final enactment of this important measure was blocked by the HMOs and the vested interests of the corporate world that deny working Americans their basic rights and a needed voice in challenging decisions that deny them basic medical care. It was blocked too by an administration that professes to support patients' rights, but does all it can to block legislation to guarantee those rights.

Despite our outstanding researchers and professionals, families across the country are overwhelmingly and justifiably concerned that medical decisions are too often made by insurance industry accountants, and not their doctors. HMO profits too often take priority over patient needs. It is time for Congress to end the abuses of patients and physicians by HMOs and the insurance industry. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts.

The Patients' Bill of Rights can stop these 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 deserve the best in health care—the same care that all members of the Senate want for ourselves 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 years 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 abuse.

Another abuse that will be ended by our plan is the denial of medically necessary drugs not on an HMO plan's list. One group that suffers from this denial is the mentally ill. Some of the most dramatic advances in medicine in recent years have been the development of effective drugs to treat persons with serious mental illness. Too often, however, they're told to settle for older, cheaper, less effective drugs with harmful side effects, because an HMO refuses to pay for the best standard of care.

Our legislation guarantees that patients can get medically necessary drugs, even if they are not on the 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 are 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:

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.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct 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.

(3) 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, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

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

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(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 make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) 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 benefits, the making 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 request for prior authorization and in no case later than 28 days after the date of the claim for benefits 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 a claim for benefits described in such subparagraph 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 health care professional certifies, 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 or 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 time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(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 and 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) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE 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 not later than 30 days after 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.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional'' means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less 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.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(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 such section is a denial of a claim for benefits for purposes 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 waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(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 request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) 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 at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection 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 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 health care professional certifies, 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 or 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 time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and 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 external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE 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.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty; with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of 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.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) 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 for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—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 appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) 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 or modify 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.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON 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.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—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 the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after 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 earlier time as may be necessary to comply with the applicable timeline under such clause.

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

(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 (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(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 unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to 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 shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE 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 referral 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 not subject to independent medical review. Such notice—

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

(II) 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 recourse available to the individual.

(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 case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY 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 determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review 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) and valid, relevant scientific evidence and clinical 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 coverage in the plain 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 an exact medical procedure, any exact 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 plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) 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.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations 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'', or ''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.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), 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 of 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 must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

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

exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), 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 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 or 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 time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

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

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, 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) so long as the items or services were provided 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 professional, 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.—

(i) IN GENERAL.—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.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or 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 resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court 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.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) 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 appeal 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—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any 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 referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

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

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

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

(2) 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 under review.

(3) INDEPENDENCE.—

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

(i) not be a related party (as defined in paragraph (7));

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

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

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

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) 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 meets 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).

(ii) 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.

(C) 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 deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(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).

(iii) APPROVAL OF 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).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or 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 it refers cases 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 requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

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

(vi) 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.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) 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 by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general 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 FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a fund, 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)) will educate and assist 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;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, 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);

(F) 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; and

(G) the manner in which the State will ensure that consumers have direct access to consumer 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 within the State 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 in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated 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 a 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 section.

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

(A) 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 in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—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, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline 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 and 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 grievances 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 insurance issuer.

(2) 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) CONTRACT 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, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide 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) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, 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).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit 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.

(c) 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.

(d) 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—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology 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 who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide 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 who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season 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 are offered 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 paid by the health 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 a health insurance issuer 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, and 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 issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty 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 or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—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 coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating 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.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(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 appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

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 by 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 or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) 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 or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by

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 person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network 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 for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan 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 after the contract termination.

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

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require 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.

(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 such a contract) 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 to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(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 to drugs included in a formulary, the plan or issuer shall—

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

(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 and, 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 offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in 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 in 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 subsection (d) 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 such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or 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);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs 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 or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

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

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(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.—

(1) 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.

(2) 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).

(d) 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 through in-kind 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;

(iii) either of the following 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.

(e) CONSTRUCTION.—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) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(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 consultations by specialists in the appropriate 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 coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that 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.

(d) PROHIBITION ON PENALTIES 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 for 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 induce 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) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

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

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

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

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside 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 to obtain preauthorization 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 care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions 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 required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to 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 prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(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 rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for 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 the benefits under the plan 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 speakers and 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 quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes 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 notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(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.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, 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.

(3) 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 defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the 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,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-patient Relationship

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 relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or 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, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a MedicareAdvantage organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

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, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

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 XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(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 the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) 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 within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms ''substantially compliant'', substantially complies'', or ''substantial compliance'' with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than 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.—

(1) IN GENERAL.—The provisions of sections 111 through 117 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 paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements 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 (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 the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. 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 the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement—

(1) is entered into knowingly and voluntarily by the parties involved after the dispute has arisen; or

(2) is pursuant to the terms of a collective bargaining agreement.

Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

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.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

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

SEC. 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, the Federal 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 subsection (a) 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 creditable 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

SEC. 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 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 SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—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 required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(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 the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 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 for (and provides for) such process and system.

''(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 appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a 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 sections of the Patients' Bill of Rights Act of 2005, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

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

''(6) 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.

''(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, 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 substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

''(8) 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 subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) 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 complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—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.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''Sec. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Patients' Bill of Rights Act of 2005, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(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, as deemed by subsection (a) of section 714 of this Act to be incorporated into such subsection)'' after ''part 7''.

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Patients' Bill of Rights Act of 2005 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(iii) 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, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

''(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and 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 such terms in section 102(e) of the Patients' Bill of Rights Act of 2005.

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

''(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

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

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—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 may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Patients' Bill of Rights Act of 2005 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

''(C) DIRECT PARTICIPATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (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 paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group 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, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit 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 amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a 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); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

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

''(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(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 within 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 (as defined in 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.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(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 under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) 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. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief

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 during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion 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.

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) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 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.

''(10) STATUTORY DAMAGES.—

''(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 flagrant 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 contract regarding 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 ⅓ 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 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 attorney's fee to ensure that the fee is a reasonable one.

''(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably 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 (9) are first 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 that 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 claim 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 preclude the purchase by 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) DIRECTED RECORDKEEPER.—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 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 instruction of the plan or the employer or other plan sponsor.

''(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)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor involved (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 transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) 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 unconditionally all liability of the 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 terms '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, shall be construed to include 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.).

''(19) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved 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 the 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) limit liability that otherwise would arise from the provision of the item or services 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 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 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.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

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

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(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 (n)(18) or section 514(d)(9) 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) 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 participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) 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 certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(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, such issuer is 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 include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

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

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for 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 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), 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 provides any punitive, exemplary, or similar 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 were 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 appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an 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.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

''(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection do not apply to certain excepted benefits.

''(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 BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Patients' Bill of Rights Act of 2005.

''(D) MANAGED CARE ENTITY.—

''(i) IN GENERAL.—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 TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

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

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (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 sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of 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 for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or 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 (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (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 the group 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, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit 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 amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) 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 individual until all administrative processes under sections 102, 103, and 104 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—

''(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Patients' Bill of Rights Act of 2005 regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

''(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

''(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) 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. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

''(D) FAILURE TO REVIEW.—

''(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action after 10 additional days after the date on which such time period has expired and the filing of such 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)(i).

''(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii) 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)(ii).

''(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or the pendency of any action with respect to which, under this paragraph, subparagraph (A) does not apply—

''(i) shall not preclude continuation of all such administrative processes to their conclusion 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) ADMISSIBLE.—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.

''(5) 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 final disposition, including all appeals, of 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.

''(6) 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 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 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 instruction of the plan or the employer or other plan sponsor.

''(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 involved, except to the extent that—

''(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, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

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

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) 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).

''(9) 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 insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any 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) 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 unconditionally all liability of the 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 terms '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, shall be construed to include 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 with respect to a cause of action where the denial involved 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) 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 service involved in the denial referred to in 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 of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable, by reason of the exemption of a cause of action from preemption 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.

''(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) IN GENERAL.—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 exemption from preemption under paragraph (1) shall not exceed ⅓ 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 final disposition, including 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.

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(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) affecting any applicable State law with respect to limitations on monetary damages.

''(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS 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 consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective date under section 601.

SEC. 403. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) IN GENERAL.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

''SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 734 the following new item:

''Sec. 735. Cooperation between Federal and State authorities''.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patients' bill of rights''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health 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 section.''.

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''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 apply to group health plans 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.—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 the following:

''SEC. 45J. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—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 EMPLOYEE DOLLAR LIMITATION.—The amount of expenses taken into account 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 new 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.

''(d) DEFINITIONS.—For purposes of this section—

''(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(2) NEW HEALTH PLAN.—

''(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

''(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

''(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

''(B) QUALIFIED EMPLOYEE.—

''(i) IN GENERAL.—The term 'qualified employee' means any employee of an employer

if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

''(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

''(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

''(e) SPECIAL RULES.—

''(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

''(f) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2014.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business 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:

''(20) in the case of a small employer (as defined in section 45J(d)(3)), the health insurance credit determined under section 45J(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(e) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45J for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45J(a).

''(2) CONTROLLED GROUPS.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45J. Small business health insurance expenses''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006, for arrangements established after the date of the enactment of this Act.

SEC. 512. 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:

''(k) CERTAIN QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

''(2) QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

''(B) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

''(i) for the purchase of real property,

''(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

''(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

''(3) TERMINATION.—This subsection shall not apply—

''(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2013, and

''(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2014.''.

(b) QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(1) IN GENERAL.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

''Subchapter D—Qualified Health Benefit Purchasing Coalition

''Sec. 9841. Qualified health benefit purchasing coalition

''SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

''(a) IN GENERAL.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

''(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

''(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

''(b) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each purchasing coalition under this section 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 employee 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 accept all small employers residing within the area served by the coalition as members if such employers request such membership.

''(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 individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

''(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

''(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

''(4) serve a significant geographical area and market to all eligible members in that area, and

''(5) carry out other functions provided for under this section.

''(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

''(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

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

''(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

''(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

''(g) RELATION TO OTHER LAWS.—

''(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

''(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

''(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the 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.

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

''(1) 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 during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) 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 employees that it is reasonably expected such employer will employ on business days in the current calendar year.''.

(2) CONFORMING AMENDMENT.—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''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

SEC. 513. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred

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 the effectiveness of innovative 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.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless 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 merely through a financial expansion 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; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

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

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) 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.

(d) 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.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants 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 remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

SEC. 514. GRANT PROGRAM TO FACILITATE HEALTH BENEFITS INFORMATION FOR SMALL EMPLOYERS.

(a) IN GENERAL.—The Small Business Administration shall award grants to 1 or more States, local governments, and non-profit organizations for the purposes of—

(1) demonstrating new and effective ways to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover of employees,

(2) making employers aware of their current rights in the marketplace under State and Federal health insurance reforms, and

(3) making employers aware of the tax treatment of insurance premiums.

(b) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 for each of the first 5 fiscal years beginning after the date of the enactment of this Act for grants under subsection (a).

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred 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 the effectiveness of innovative 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.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless 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 merely through a financial expansion 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; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

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

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) 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.

(d) 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.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants 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 remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2006 (in this section referred to as the ''general effective date'').

(2) 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 employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends 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 general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to an individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury 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 revenues 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. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Homeland Security FORWARD Funding Act of 2005. I am pleased to be joined by my colleague from Texas, Senator JOHN CORNYN, as well as Senators LAUTENBERG, HUTCHISON, BOXER, CORZINE, SCHUMER, CLINTON and Senator NELSON of Florida.

It is time that Congress ensures that funding to bolster the security of our nation goes to where the threat is the greatest.

Unfortunately, billions of dollars in homeland security funds to states and local communities—including $3.6 billion in fiscal year 2005—are now being distributed to areas that are not at the greatest risk of terrorist attack.

To do this, we need to adopt risk-based analysis to determine where our homeland security funding goes, rather than continue with the present system of ad hoc determinations, ''small-state minimums'' and poorly understood decision-making, that leave some targets exposed to threats while sending resources to places where there is little chance of terrorist attack.

This legislation will ensure that priorities are set according to analysis of risk and threat. Specifically it directs the Secretary of Homeland Security to allocate funding to homeland security grants based on risk analysis.

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 Department of Homeland Security in addition to grants for seaport and airport security—called ''covered grants'' in the bill, including: 1. the State Homeland Security Grant Program; 2. the Urban Area Security Initiative; 3. the Law Enforcement Terrorism Prevention Program; and 4. the Citizens Corps Program.

Reduces the ''small state minimum'' to 25 percent per State. Current practice requires each state to get .75 percent of much of the grant funding. That means 37.5 percent of the funds are marked for distribution before any risk analysis.

Requires grants be designed to meet ''essential capabilities.'' Essential capabilities are what we get for the money spent—the ability to address the risk by reducing vulnerability to attack and by diminishing the consequences of such an attack by effective response.

Ensures that States quickly and effectively pass on Federal funds to where they are needed so that Federal funds are not held back.

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 efforts to 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 finite.

The total amount of money, time and personnel that can be devoted to homeland security is 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

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 roof the capability 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, and contains state minimums, so even 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 $37.52 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 . . . [w]ith only limited resources available to achieve the almost limitless goal of protecting the entire 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 sake. 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 of the small-State 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.'' The 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 terrorist 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 I took of several Texas seaports. 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 consequences 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 most need to protect, and that 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 federal 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 and intention that by 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 enable coordination 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 retain authority to administer 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 much of 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 Patriotic Businesses 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 terrorism 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 confirms what 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 increased Guard and 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 importance 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 the time when 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 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.

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 their owners and key personnel for months, and sometimes years, on end.

(5) The effects have been devastating to such patriotic small businesses.

(6) The Office of Veterans 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 better assist veterans 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. 657c) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

(b) PERMANENT EXTENSION OF AUTHORITY.—Section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking subsection (h).

SEC. 5. PROFESSIONAL AND OCCUPATIONAL LICENSING.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

''SEC. 707. CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL AND OCCUPATIONAL LICENSES.

''(a) APPLICABILITY.—This section applies to any servicemember who, after the date of enactment of this section, is ordered to active duty (other than for training) pursuant to section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title, during a period when members are on active duty pursuant to any such section.

''(b) CONTINUING EDUCATION REQUIREMENTS.—A servicemember described in subsection (a) may not be required to complete the satisfaction of any continuing education requirements imposed with respect to the profession or occupation of the servicemember that accrue during the period of active duty of the servicemember as described in that subsection—

''(1) during such period of active duty; and

''(2) during the 120-day period beginning on the date of the release of the servicemember from such period of active duty.

''(c) ACTIVE DUTY DEFINED.—In this section, the term 'active duty' has the meaning given that term in section 101(d) of title 10, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding at the end the following new item:

''Sec. 707. Continuing education requirements for professional and occupational licenses.''.

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:

''(5) RELIEF FROM TIME LIMITATIONS.—

''(A) IN GENERAL.—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program available to small business concerns shall be extended for a small business concern that—

''(i) is owned and controlled by—

''(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States, on or after September 11, 2001; or

''(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active miliary, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision of law referred to in subclause (I) on or after September 11, 2001; and

''(ii) was subject to the time limitation during such period of active duty.

''(B) DURATION.—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.''.

SEC. 7. COUNSELING OF MEMBERS OF THE NATIONAL GUARD AND RESERVES ON NOTIFICATION OF EMPLOYERS REGARDING MOBILIZATION.

(a) COUNSELING REQUIRED.—The Secretary of each military department shall provide each member of a reserve component of the Armed Forces under the jurisdiction of the Secretary who is on active duty for a period of more than 30 days, or on the reserve active-status list, counseling on the importance of notifying such member's employer on a timely basis of any call or order of such member to active duty other than for training.

(b) FREQUENCY OF COUNSELING.—Each member of the Armed Forces described in subsection (a) shall be provided the counseling required by that subsection not less often than once each year.

SEC. 8. STUDY ON OPTIONS FOR IMPROVING TIMELY NOTICE OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES REGARDING MOBILIZATION.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of the feasibility and advisability of various options for improving the time in which employers of members of the reserve components of the Armed Forces are notified of the call or order of such members to active duty other than for training.

(2) PURPOSE.—The purpose of the study under paragraph (1) shall be to identify mechanisms, if any, for eliminating or reducing the time between—

(A) the date of the call or order of members of the reserve components of the Armed Forces to active duty; and

(B) the date on which employers of such members are notified of the call or order of such members to active duty.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a). The report shall include—

(1) a description of the study, including the options addressed under the study; and

(2) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the results of the study.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services and Small Business and Entrepreneurship of the Senate; and

(2) the Committees on Armed Services and Small Business of the House of Representatives.

Background: From September 2001 through November 2004, approximately 410,000 National Guard and Reserve personnel have been mobilized in support of current operations. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, 26 percent work for large businesses, 36 percent work for the government, Federal, State, or local, and the remainder work for non-profits. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. As a result of call-ups, many 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 small businesses.

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 Veteran Business Development to $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 Veterans 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 valuable 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; the President; 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 continuing education requirements. NOTE: 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.

Reasoning: Some of the SBA's contracting and business development programs have defined time limits for participation. If the firm's time for participation expires prematurely, then competitive opportunities, investments, and jobs become lost. Currently, small business owners who get called up to active duty in the National Guard or Reserve are effectively penalized because their active duty time is counted against the time limitations on participation in the SBA's programs.

Section 7.—Requires that the Secretary of each military department ensure that counseling is provided, at least once a year, to members of the National Guard and Reserves on the importance of notifying their employers regarding their mobilization.

Reasoning: Employers often receive little warning of a guard or reservist's call-up. A survey published by the DoD in November 2003 (DMDC Report No. 2003–10), which questioned guard and reservists who had been called up over the previous 24 months, indicated that they notified their civilian employers an average of 13 days before their call-up began. The survey also showed that almost 60 percent of Guard and Reservists gave their employers advance notice of one week or less. Unfortunately, providing short notice to employers does not allow them time to adequately plan for a guard member or Reservist's absence, and ultimately hurts a business's bottom line. It is important that employers have ample time to make the adjustments necessary to sustain their business.

Section 8.—Improves the focus upon notifying employers in a timely manner regarding call-ups.

Reasoning: For the reasons provided under Section 7, this provision would commission a DoD study on ways to improve the timely notice of employers regarding call-ups.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to introduce The Health Care Choice Act of 2005, a bill that would help Americans afford health insurance.

Approximately 45 million Americans lack health insurance. These uninsured Americans face significant hurdles in entering the insurance marketplace, including limited choices of insurers and inflexible benefit options. For most, the high cost of health insurance is the biggest impediment to getting coverage. In fact, nearly two-thirds of the uninsured are the working poor, and they cite the high cost of insurance as the primary barrier to accessing health coverage.

The cost of insurance is often increased by excessive State regulations. These State mandates raise the cost of insurance which, in turn, increases the number of Americans who are priced out of the health insurance market.

The Health Care Choice Act will allow consumers to shop for health insurance the same way they do for other insurance products—online, by mail, over the phone, or in consultation with an insurance agent in their hometown. 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 tailor 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.

There 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-retention groups 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 covered laws shall 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 all such 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 in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—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 that, based on its present 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—

''(A) individual health insurance coverage issued by a health insurance issuer;

''(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

''(C) the provision to an individual in relation to individual health insurance coverage of—

''(i) health care and insurance related services;

''(ii) 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 provides insurance.

''(8) STATE.—The term 'State' means only the 50 States and the District of Columbia.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''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 coverage 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 issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or 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—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines 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 by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(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 an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

'This policy is issued by _____ and is governed by the laws and regulations of the State of _____, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'.

''(d) PROHIBITION 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 insured under the health 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 a 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 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) 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;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual 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) LICENSING 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 many 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 copy of the 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 and 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 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 or group 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 make use of any of its powers to enforce the 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 (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(j) STATES' AUTHORITY TO SUE.—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 applicability of State laws generally applicable to persons or corporations.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''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) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply 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.''.

(b) 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. CLINTON, 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 Act. The Chairman and Ranking Member of the Senate Committee on Environment and Public Works, Senators INHOFE and JEFFORDS, respectively, as well as Senators CLINTON, LAUTENBERG, BAUCUS, MURKOWSKI, CRAPO, ENZI and CORZINE have joined me as original cosponsors of this important legislation to address our nation's water resource concerns.

Originally enacted in 1964, the Water Resources Research Act authorizes the establishment of a nationwide, State-based network of Water Resources Research Institutes. These Institutes represent a partnership among State universities; Federal, State, and local governments; and stakeholders aimed at solving problems of water supply and water quality. They are located at the land-grant universities in each of the 50 States, the territories and the District of Columbia.

The 54 Water Resources Research Institutes are charged with conducting competent research to develop new technologies and more efficient methods for resolving local, State and national water-resources problems; fostering new research scientists into water resources fields; and facilitating water research coordination and the application of research results through information dissemination and technology transfer.

The Institutes provide important support to the States in their long-term water planning, policy development, and management. A significant portion of the Institutes' work is intended to help State and local water managers implement Federal regulations in ways that are tailored to local and State institutions and natural conditions. Water quality regulations, drinking water standards, wastewater treatment, and water reuse programs are examples of areas in which the Institutes provide research and information transfer.

In my own State, the Rhode Island Water Resources Center is located at the University of Rhode Island. The Center's recent activities have included working with the Rhode Island Airport Corporation to develop a plan for mitigating runoff contamination due to deicing and anti-icing operations at T.F.Green Airport. Other work conducted by the Center has encompassed evaluating the scour potential of streams and river banks in the State to study how they may be affected by land use and other changes; developing a statewide public water-supply GIS coverage program; and working with communities to evaluate MTBE drinking water contamination.

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 are the training grounds for the next generation of the Nation's water scientists, economists and 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 and are the key to maintaining a valuable national network.

The legislation I am introducing today reauthorizes $62 million in funding through fiscal year 2010 for the Nation's Water Resources Research Institutes and $32 million for the Act's Interstate Research Program. I look forward to working with the bill's original cosponsors as well as my colleagues on the Environment and Public

Works Committee to ensure this national network of university-based research institutes continues to support the water resources needs of the Nation.

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. 1017

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 ''Water Resources Research Act Amendments of 2005''.

SEC. 2. WATER RESOURCES RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)) is amended—

(1) in the subsection header, by striking ''**IN GENERAL**'';

(2) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended—

''(A) $12,000,000 for each of fiscal years 2006 through 2008; and

''(B) $13,000,000 for each of fiscal years 2009 and 2010.''; and

(3) in paragraph (2), by striking ''(2) Any'' and inserting the following:

''(2) FAILURE TO OBLIGATE FUNDS.—Any''.

(b) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1)—

(A) in the first sentence—

(i) by striking ''There'' and inserting the following:

''(1) IN GENERAL.—There''; and

(ii) by striking ''$3,000,000 for fiscal year 2001, $4,000,000 for fiscal years 2002 and 2003, and $6,000,000 for fiscal years 2004 and 2005'' and inserting ''$6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for each of fiscal years 2009 and 2010'';

(B) in the second sentence, by striking ''Such'' and inserting the following:

''(2) NON-FEDERAL MATCHING FUNDS.—The''; and

(C) in the third sentence, by striking ''Funds'' and inserting the following:

''(3) AVAILABILITY OF FUNDS.—Funds''.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to alllow 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; to the Committee on Homeland Security and Governmental Affairs.

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 federal employees 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 loss, 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 $18 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 $65 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 clear improvements to congestion, 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 Washington Metropolitan Area Transit Authority and the U.S. 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 12,500 single-occupancy vehicles from Washington, D.C. area 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 and provide an additional incentive 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 my own 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 pass benefits be made available to all qualified Federal employees in the National Capital Region. The 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, DC 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 affordable, 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 employee 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 and pollution 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 all qualified Federal employees serving 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 to be offered by Federal agencies in the National Capital Region on the date of enactment of this Act.

(c) DEFINITIONS.—In this section—

(1) the term ''covered 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 7905(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 2 of Executive Order 13150;

(4) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(5) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(6) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would 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 (before the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law; or

(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 program or 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 TRANSIT FACILITIES.

(a) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(1) by redesignating subsections (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 (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb 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 purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) 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.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(b) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(c) 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 agency involved.

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 12, AFL–CIO,

May 11, 2005.

Hon. PAUL SARBANES
U.S. Senate, Washington, DC.
Subject: H.R. 1283

DEAR SENATOR SARBANES: The American Federation of Government Employees (AFGE) Local 12 represents 3,600 employees at the U.S. Department of Labor in the Washington D.C. metropolitan area.

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, Chris Van Hollen, Steny Hoyer, Frank Wolf, and Earl Blurnenauer. It has been referred to the House Government Reform Committee.

Passage into law of this legislation would not only help employees at any Federal agency in this area where management has decided, for whatever reason, not to offer the tax-free maximum transit subsidy. It would also benefit the region generally by giving more Federal employees the incentive to use mass transit, thus helping to lessen traffic congestion and air pollution.

The membership of AFGE Local 12 passed a resolution on May 5 of this year in support of this kind of legislation. A copy of the resolution is attached.

Thank you very much for your consideration of this serious matter.

Respectfully yours,

LAWRENCE C. DRAKE, Jr.
President.

Approved by the membership of AFGE Local 12 on May 5, 2005

RESOLUTION ON TRANSIT SUBSIDY LEGISLATION

Whereas: Using mass transit is one of the most cost-effective, environmentally sound, and energy efficient ways for Federal employees to commute to their workplaces;

Executive Order 13150 ordered transit subsidies, now valued at a maximum of $105 a

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 appropriate transit benefits to 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, unanimously 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 remedy Executive Order 13150's lack of legal recourse against agencies willfully ignoring its requirements;

Therefore be it resolved that:

American Federation of Government Employees Local 12 endorses legislation such as H.R. 1283 which codifies Executive Order 13150 and repeals 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 and the AFL–CIO to actively seek enactment of such legislation.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
May 11, 2005.

Hon. PAUL S. SARBANES,
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to express strong support for legislation you are proposing that would expand the use of transit-related commuter tax benefits in the Washington, DC region. This legislation will help promote the use of public transportation and thereby support regional efforts to reduce traffic congestion in the National Capital area. We note that a recent report by the Texas Transportation Institute (TTI) cited the Washington, DC metropolitan area as the third most congested in the nation.

As we understand it, your legislation would codify language currently in an executive order that requires federal executive branch agencies to offer to their employees transit benefits equal to employee commuting costs, currently up to $105 per month. The legislation would also expand the eligibility of these benefits to legislative and judicial branch employees in the National Capital area.

We believe that it is important that the federal government support the use of public transportation in its efforts to reduce congestion, minimize auto pollution, and make the best use of existing public transportation facilities that are built with a substantial federal investment. APTA has been a longtime proponent of providing federal tax incentives that promote public transportation at no less a level than those 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) 496–4811 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 15, 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 concerning 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 currently save the metropolitan area more than $1 billion annually in delay costs and over 52 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 unrelentless 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 required to be offered to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House and Senate and several independent agencies. Since the imposition of 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 employees transit benefit and expand its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the Metrochek 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. While many federal agencies throughout the region are within walking distance of Metrorail stations, and other transit facilities, some are not. This legislation will make transit accessible to many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many thanks for your 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 efforts to reintroduce 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 under TEA 21 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 64% 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 benefit is limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Such 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 recourse to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove more than one lane of traffic off of I–95 and I–66 during peak commuting rush hours in the morning and the evening. Not only does it reduce car emissions; thus improving air quality, but also ensures that the federal and private workforce can 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 and for authoring 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 ZEHNER,
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

combat operation; to the Committee on Finance.

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 for 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 troops 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 Continued 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 an assessment of mental health 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 or mental health conditions. 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 war-related ailments so the information will be available to answer any future questions about the ailment's 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. Currently, mobilized 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 Nation 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.

Mr. COLEMAN. Mr. President, today I am introducing legislation to help the United States compete in an increasingly global economy in order to keep and to grow good paying, high quality jobs here at home. I am very pleased to be joined by my very good friend and colleague, Senator MARK PRYOR, who cares as deeply about these issues as I do.

In recent years much has been written about globalization—especially the ''outsourcing'' of American jobs overseas. In fact, my hometown paper, the St. Paul Pioneer Press recently ran an editorial highlighting a survey done by the Federal Reserve that shows despite all the talk of ''outscouring'' and ''lost jobs'', globalization has resulted in more jobs and more money for Minnesota's workers. I ask unanimous consent that this article be included in the record along with my statement. However, that same editorial warned that as China, India and the European Union work to expand their own market opportunities by modernizing their infrastructure and improving the skills of their workforce, there is no guarantee that the world's best companies will continue to invest here at home.

Yet, at the same time that the Labor Department has projected that new jobs requiring advanced science, engineering and technical training will increase four times faster than the average national job growth rate, only 36 percent of 9th–12th graders in Minnesota are taking upper level math courses, and only 22 percent of are taking upper level science. Moreover, in a high tech economy that values knowledge and ideas as much as the products they produce the U.S. Patent and Trademark Office (PTO) has reported that the time it takes someone to get a patent is exploding. The facts read loud and clear: in order to maintain our place as the leader in tomorrow's economy, America must act now to maintain our competitive advantage and remain ahead of the curve.

That is why we are introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 or the COMPETE ACT of 2005. The COMPETE Act is based on three simple, fundamental ideas: 1. The U.S. needs to maintain its competitive advantage in robust technology and innovation; 2. We must continue to ''upskill'' our workforce to ensure they have the skills necessary to remain competitive in a global economy that is more reliant on technology than ever before; and 3. We must utilize private-public partnerships to help improve education in the areas of science, technology, engineering and mathematics.

America's economic strength is rooted in its ability to innovate, and so the COMPETE Act strengthens and expands the R&D tax credit. Expanding the R&D tax credit will help American companies to stay on the forefront of the technological revolution. This credit helps fuel job creation here at home and enables companies to bring more products and services to market.

The COMPETE Act also reforms and improves the U.S. Patent Trademark Office (PTO). It is no secret that patents and trademarks are the currency that drives America's high-tech economy. Unfortunately, the PTO estimates that it will take an average of 49 months by 2009 for it to issue a patent. This is a lifetime when you are innovating, and discourages new ideas. Furthermore, the current backlog on patent applications now totals almost a half million—the highest ever. Fortunately, the PTO has come up with a solution to this problem. However, it does not have the money to implement it. The COMPETE Act provides the PTO with the crucial funding necessary to reform the patent and trademark process so that U.S. companies remain on the forefront of the technological revolution.

Today, our employers need more than just raw materials; they need a highly skilled workforce who adds that extra value to their product. That is

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 infrastructure America needs to be a leader in today's global market.

To help close the math and science gap, the COMPETE Act creates a public-partnership 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 for businesses to get more involved in helping high-need 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 organizations, including the R&D 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 to have 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 moms and dads to enjoy good paying 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:

[From the St. Paul Pioneer Press, Dec. 19, 2004]

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 Kirscht, 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,'' Kirscht 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 Cheppard, CEO of Kenyon-based Foldcraft 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 those surveyed said 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 them out of Minnesota.

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 materials from around the world, but at the same time have seen significant export growth as international demand for its products 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, and by differentiating ourselves from foreign competitors, mainly in China and Korea, we think we can meet the challenge of global competition.''

The Fed notes that regardless of how 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 how our regimen compares with not just Seattle and Shreveport, but Shanghai and Singapore. For the Fed study makes clear that the world—not just the 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: Intellectual 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 diversion 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 workload 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, but until now, the USPTO has been hampered by lack of funding. Last year, Congress passed legislation raising patent application fees by 15 to 25 percent. The fee increase will 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 situation at the PTO provided that the money will go to the agency and not be diverted 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 applicants to unrelated government programs from 1992 until 2004.

IPO firmly 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.

AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT,
Alexandria, VA, May 11, 2005.

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 Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 (COMPETE Act). As the world's largest association dedicated to training, workplace learning, and performance professionals, ASTD is acutely aware that one of the most critical issues facing organizations today is developing the knowledge and capabilities of the workforce. Your bill is a big step in the right direction to ensuring that the U.S. workforce remains competitive in the global economy.

Sections 111–112 of Title I, the Tax Credit for Information and Communications Technology Education and Training Program Expenses, are of particular interest to ASTD. This tax credit can benefit all U.S. companies because every industry requires IT skills, not just IT-based companies. According to ASTD's 2004 State of the Industry Report, one of the most important content areas in which employees are trained in U.S. organizations is IT and systems training. A tax credit for expenses paid or incurred for IT training demonstrates a targeted solution for both employer and employee (or an unemployed individual). Employers identify what training is needed; employees are able to train or upskill in industries that need skilled workers. And because employers or individuals are required to pay half the training or educational costs, there is a greater likelihood that the program will be successful. ASTD therefore supports your efforts to include these sections in the COMPETE Act.

Many businesses find themselves ill-equipped to grow because the skills required to meet demand for growth are in short supply in their organizations. A full 66 percent of respondents to a recent ASTD poll say there is a skills gap in their organizations right now, and almost 20 percent say there will be one within the next year. The best approach for addressing the skills gap is the COMPETE Act's solution of providing government incentives that enable the private sector to train or educate more people in the industries in which skilled workers are needed.

The COMPETE Act is an excellent example of a public-private partnership that can ensure companies remain competitive, and individuals seek the education they need to enter or re-enter the workforce. We look forward to working with you and your staff as this bill progresses through the Senate.

Sincerely,

TONY BINGHAM,
President & CEO.

COUNCIL OF GRADUATE SCHOOLS,
Washington, DC.

Hon. NORM COLEMAN,
U.S. Senate, Washington, DC.
Hon. MARK PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: I am writing to commend you for supporting our nation's economic competitiveness through the introduction of the Collaborative Opportunities to Mobilize and Promote Education, Technology and Enterprise (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.

CGS is committed to collaborating with you and others on developing a coordinated national strategy to enhance America's 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 graduate education, extension and enhancement of the R&D tax credit, and improvements to the Federal patent and trademark process. These policy proposals along with others designed 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,

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 Act of 2005'' or the ''COMPETE Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—TAX INCENTIVES

Subtitle A—Research Credit

SEC. 101. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''2005'' and inserting ''2007''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking ''2005'' and inserting ''2007''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 102. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'';

(2) by striking ''3.2 percent'' and inserting ''4 percent''; and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 103. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6

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 section 41(c)(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 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) in the case of 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 information and communications technology education and training expenses, plus

''(II) $8,000 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such 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) $4,000 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) $2,500 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses.

''(2) INDIVIDUALS.—The amount of expenses with respect to any individual described in subsection (a)(2) which may be taken into account under subsection (a) for the taxable year shall not exceed $2,500 ($4,000 in the case of a qualified individual).

''(3) COORDINATION OF CREDITS.—

''(A) IN GENERAL.—The credit under subsection (a)(1) allowed to an employer with respect to any employee shall be reduced by the coordination exclusion amount.

''(B) PORTION OF CREDIT ALLOWABLE.—For purposes of subparagraph (A), the coordination exclusion amount is an amount which bears the same ratio to the applicable limitation as—

''(i) 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 used by such employer to calculate the limitation under such paragraph.

''(4) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual—

''(A) with respect to whom all information and communications technology education and training program expenses are paid or incurred in connection with a program operated—

''(i) 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,

''(ii) in a school district in which at least 50 percent of the students attending schools 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,

''(iii) 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,

''(iv) in a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999,

''(v) in an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone,

''(vi) in an area over which an Indian tribal government (as defined in section 7701(a)(40)) has jurisdiction, or

''(vii) by an employer who has 200 or fewer employees for each business day in each of 20 or more calendar weeks in the current or preceding calendar year,

''(B) with a disability, or

''(C) 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 any 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, 1937 (50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq), which are registered by the Department of Labor, and

''(D) other expenses that are essential to assessing skill acquisition.

''(2) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM.—The term 'information technology education and training program' means a training program in information and communications technology workplace disciplines or which is provided in the United States by an accredited college, university, private career school, postsecondary educational institution, a commercial information technology provider, or an employer-owned information technology training organization.

''(3) COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term 'commercial information technology training provider' means a private sector organization providing an information and communications technology education and training program.

''(4) EMPLOYER-OWNED INFORMATION TECHNOLOGY TRAINING ORGANIZATION.—The term 'employer-owned information technology training organization' means a private sector organization that provides information technology training to its employees using internal training development and delivery personnel. The training programs must use industry-recognized training disciplines and evaluation methods, comparable to institutional and commercial training providers.

''(d) DENIAL OF DOUBLE BENEFIT.—

''(1) DISALLOWANCE OF OTHER CREDITS AND DEDUCTIONS.—No deduction or credit shall be allowed under any other provision of this chapter for expenses taken into account in determining the credit under this section.

''(2) REDUCTION FOR HOPE AND LIFETIME LEARNING CREDITS.—The amount taken into account under subsection (a) shall be reduced by the information technology education and training program expenses taken into account in determining the credits under section 25A.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.

''(f) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the sum of the regular tax liability (as defined by section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and section 27 for the taxable year.

''(g) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning after 2004, each of the dollar amounts under paragraphs (1), (2), and (3) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(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)(3)).''.

(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 LIMITATION FOR CORPORATE CHARITABLE 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:

''(3) SPECIAL RULE 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 all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) 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 2202(c) of the Elementary and Secondary Education Act of 1965..

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) 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)(A).''.

(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 between an institution of higher education 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 business.

(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 America Competitive Center'' (MAC Center).

(e) USE OF FUNDS.—

(1) 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 methods in the 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; or

(B)(i) received 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 9101(23) of the Elementary and Secondary Education Act of 1965).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006;

(2) $210,000,000 for fiscal year 2007;

(3) $230,000,000 for fiscal year 2008;

(4) $270,000,000 for fiscal year 2009; and

(5) $350,000,000 for fiscal year 2010.

SEC. 202. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661 et seq.) is amended by adding at the end the following:

''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 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 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) APPLICABILITY.—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 $130,000,000 for each of fiscal years 2006 through 2009, and $260,000,000 for each of fiscal years 2010 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) offers an established program of postbaccalaureate 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 enable the eligible institutions of higher education to carry out authorized activities described in subsection (e).

(2) MATCHING FUNDS REQUIRED.—In order to receive a grant under this subsection an eligible institution of higher education shall agree to provide matching funds, toward the cost of the authorized activities to be assisted under the grant, in an amount equal to 25 percent of the funds received under the grant.

(3) AWARD CONSIDERATIONS.—In awarding grants under this subsection the Director shall take into consideration—

(A) the demonstrated commitment of the eligible institution of higher education to providing matching funds (including tuition remission, tuition waivers, and other types of institutional support) toward the cost of the authorized activities to be assisted under the grant;

(B) the demonstrated capacity of the eligible institution of higher education to raise matching funds from private sources;

(C) the demonstrated ability of the eligible institution of higher education to work with private corporations and organizations to promote economic competitiveness and job creation;

(D) the demonstrated ability of the eligible institution of higher education to increase the number of the eligible institution of higher education's graduates in the sciences, technology, engineering, or mathematics with the interdisciplinary background and the technical, professional and personal skills needed to contribute to American competitiveness and job creation in the future;

(E) the potential for the grant assistance to increase the number of graduates in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(F) the demonstrated track record of the eligible institution of higher education in outreach and mentoring activities that have the expressed purpose of recruiting and retaining women, recognized minorities, and individuals with disabilities in the sciences, technology, engineering, or mathematics.

(4) AMOUNT.—The Director shall award each grant under this subsection in an amount that is not more than $1,000,000 for each fiscal year.

(5) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Director shall ensure—

(A) an equitable geographic distribution of the grants; and

(B) an equitable distribution among public and independent eligible institutions of higher education.

(d) APPLICATIONS.—Each eligible institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information and assurances as the Director may require. Each such application shall describe—

(1) the authorized activities for which assistance is sought;

(2) the source and amount of the matching funds to be provided; and

(3) the amount of funds raised by the eligible institution of higher education from private sources that will be allocated and spent to carry out the authorized activities described in subsection (e).

(e) AUTHORIZED ACTIVITIES; AGREEMENT.—Each eligible institution of higher education desiring a grant under this section shall enter into a written agreement with the Director under which the eligible institution of higher education agrees to use all of the grant funds—

(1) to provide stipends or other financial assistance (such as tuition assistance and related expenses) for students who are enrolled in graduate programs in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(2) to support outreach and mentoring activities to increase the participation of underrepresented groups in the sciences, technology, engineering, or mathematics at all or any level of education, including elementary, secondary and post-secondary education.

(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) $90,000,000 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) If estimated fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, the Director shall reduce fees established under section 41 of this title and section 31(a) of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') for that fiscal year or the remainder of that fiscal year so that estimated collections for that fiscal year are equal to the amount appropriated to the Office for that fiscal year. Such reductions shall take effect on the later of October 1, of that fiscal year or 2 months after the date of enactment of the Act making the appropriation, and shall not be retroactive.''.

(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 the 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 and tomorrow's workplace cannot be met if we do not provide everyone access to lifelong education, training and retraining.

Sixty percent of tomorrow's jobs will require skills that only 20 percent of today's workers 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 postsecondary education or training.

Technology is demanding that everyone 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.

The legislation I am introducing today helps meet these challenges. It is the result of a bipartisan process that began in the 108th Congress. It gives States and local areas the flexibility to provide training for jobs in high skill, high wage, and high demand occupations. It strengthens connections with the private sector, postsecondary education and training, and economic development systems to prepare the 21st century workforce. It improves the existing structure of one-stops to ensure an effective response to the changing needs of employers and workers in a new economy. It includes a new focus on entrepreneurial skills and micro-enterprises, addresses unique needs of small businesses and rural areas, and encourages collaboration locally and regionally with economic development and education.

This legislation also amends the Adult Education and Family Literacy Act and the Vocational Rehabilitation Act. These amendments encourage coordination with K–12 schools, postsecondary education and the workforce system so that individuals with barriers to workforce participation will have an opportunity to gain the literacy, language or core skills they will need to enter and advance in the workplace.

I hope that our bipartisan efforts will continue to produce the results that are needed as we move this bill through the Senate and into Conference. This legislation is critical to meeting the workforce challenges of the 21st century. It sends a clear message that we are serious about helping our workers and employers remain competitive and closing the skills gap that places America's long-term competitiveness in jeopardy.

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 Representatives 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:

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

Section 101 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (1) through (4), (5) through (16), (17), (18) through (41), and (42) through (53) as paragraphs (2) through (5), (7) through (18), (20), (23) through (46), and (48) through (59), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) ACCRUED EXPENDITURES.—The term 'accrued expenditures' means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for—

''(A) goods or other tangible property received;

''(B) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

''(C) other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.'';

(3) in paragraph (2) (as redesignated by paragraph (1)), by striking ''Except in sections 127 and 132,'' and inserting ''Except in section 132,'';

(4) by striking paragraph (5) (as redesignated by paragraph (1)) and inserting the following:

''(5) BASIC SKILLS DEFICIENT.—The term 'basic skills deficient' means, with respect to an individual, that the individual—

''(A) has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or

''(B) is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.'';

(5) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

''(6) BUSINESS INTERMEDIARY.—The term 'business intermediary' means an entity that brings together various stakeholders with an expertise in an industry or business sector.'';

(6) in paragraph (9) (as redesignated by paragraph (1)), by inserting '', including a faith-based organization,'' after ''nonprofit organization'';

(7) in paragraph (10) (as redesignated by paragraph (1))—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

(B) in subparagraph (C)—

(i) by striking ''for not less than 50 percent of the cost of the training.'' and inserting ''for—

''(i) a significant portion of the cost of training as determined by the local board,

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 subparagraphs (A) and (B)) with an employer in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.'';

(8) in paragraph (11) (as redesignated by paragraph (1))—

(A) in subparagraph (A)(ii)(II), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(B) in subparagraph (C), by striking ''or'' after the semicolon;

(C) in subparagraph (D), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(E)(i) is the spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

''(ii) is the spouse of a member of the Armed Forces on active duty who meets the criteria described in paragraph (12)(B).'';

(9) in paragraph (12)(A) (as redesignated by paragraph (1))—

(A) by striking ''and'' after the semicolon and inserting ''or'';

(B) by striking ''(A)'' and inserting ''(A)(i)''; and

(C) by adding at the end the following:

''(ii) is the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and'';

(10) in paragraph (14)(A) (as redesignated by paragraph (1)), by striking ''section 122(e)(3)'' and inserting ''section 122'';

(11) by inserting after paragraph (18) (as redesignated by paragraph (1)) the following:

''(19) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals 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.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.'';

(12) by inserting after paragraph (20) (as redesignated by paragraph (1)) the following:

''(21) INTEGRATED TRAINING PROGRAM.—The term 'integrated training program' means a program that combines occupational skills training with English language acquisition.

''(22) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a), and subparagraphs (A) and (B) of section 102(a)(1), of the Higher Education Act of 1965 (20 U.S.C. 1001(a), 1002(a)(1)).'';

(13) in paragraph (30) (as redesignated by paragraph (1))—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

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

''(D) receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);'';

(14) in paragraph (31) (as redesignated by paragraph (1)), by inserting after ''fields of work'' the following: '', including occupations in computer science and technology and other emerging high-skill occupations,'';

(15) in paragraph (35) (as redesignated by paragraph (1)), by inserting '', subject to section 121(b)(1)(C)'' after ''121(b)(1)'';

(16) by striking paragraph (38) (as redesignated by paragraph (1)) and inserting the following:

''(38) OUT-OF-SCHOOL YOUTH.—The term 'out-of-school youth' means an out-of-school youth as defined in section 129(a)(1)(B).'';

(17) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

''(47) SELF-SUFFICIENCY.—The term 'self-sufficiency' means self-sufficiency within the meaning of subsections (a)(3)(A)(x) and (e)(1)(A)(xii) of section 134.'';

(18) in paragraph (49) (as redesignated by paragraph (1)), by striking ''clause (iii) or (v) of section 136(b)(3)(A)'' and inserting ''section 136(b)(3)(A)(iii)'';

(19) in paragraph (58) (as redesignated by paragraph (1)), by striking ''(or as described in section 129(c)(5))'' and inserting ''(or as described in section 129(a)(2))''; and

(20) in paragraph (59) (as redesignated by paragraph (1)), by striking ''established under section 117(h)'' and inserting ''that may be established under section 117(h)(2)''.

Subtitle B—Statewide and Local Workforce Investment Systems

SEC. 111. PURPOSE.

Section 106 (29 U.S.C. 2811) is amended to read as follows:

''SEC. 106. PURPOSES.

''The purposes of this subtitle are the following:

''(1)(A) Primarily, to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, self-sufficiency, and earnings of participants, and increase occupational skill attainment by participants.

''(B) As a result of the provision of the activities, to improve the quality of the workforce, reduce welfare dependency, increase self-sufficiency, and enhance the productivity and competitiveness of the Nation.

''(2) To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility.

''(3) To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.

''(4) To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.

''(5) To provide workforce investment systems that work in all areas of the Nation, including urban and rural areas.

''(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.

''(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies to ensure that the United States remains competitive in the global economy.

''(10) To equip workers with higher skills and contribute to lifelong education.

''(11) To eliminate training disincentives for hard-to-serve populations and minority workers, including effectively utilizing community programs, services, and agencies.

''(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(b) (29 U.S.C. 2821(b)) is amended—

(A) in paragraph (1), by striking subparagraph (C) and inserting the following:

''(C) representatives appointed by the Governor, who—

''(i) are the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners, except that—

''(I) in any case in which no lead State agency official has responsibility for such a program or activity, the representative shall be a representative in the State with expertise relating to such program or activity; and

''(II) in the case of the programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), the representative shall be the director of the designated State unit, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);

''(ii) are the State agency officials responsible for economic development;

''(iii) are representatives of business in the State, including small businesses, who—

''(I) are owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

''(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and

''(III) are appointed from among individuals nominated by State business organizations, business trade associations, and local boards;

''(iv) are chief elected officials (representing cities and counties, where appropriate);

''(v) are representatives of labor organizations, who have been nominated by State labor federations; and

''(vi) are such other State agency officials and other representatives as the Governor may designate.''; and

(B) in paragraph (3), by striking ''paragraph (1)(C)(i)'' and inserting ''paragraph (1)(C)(iii)''.

(2) CONFORMING AMENDMENT.—Section 111(c) (29 U.S.C. 2821(c)) is amended by striking ''subsection (b)(1)(C)(i)'' and inserting ''subsection (b)(1)(C)(iii)''.

(b) FUNCTIONS.—Section 111(d) (29 U.S.C. 2821(d)) is amended—

(1) in paragraph (1), by striking ''development'' and inserting ''development, implementation, 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. 49 et seq.) to plan and coordinate employment and training activities with local boards'';

(3) by striking paragraph (3) and inserting the following:

''(3) reviewing and providing comment on the State plans of all 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 (20 U.S.C. 2323(b)(3)) and title II of this Act;'';

(4) by redesignating 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 affecting the coordinated provision of services through the one-stop delivery system described in section 121(e) within the State, including—

''(A) the 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(g);

''(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(h)(1)(B);

''(C) the development of—

''(i) 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 outreach to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system;

''(iii) strategies for technology improvements to facilitate access to services provided through the one-stop delivery system, in remote areas, and for individuals with disabilities, which may be utilized throughout the State; and

''(iv) strategies for the effective coordination of activities between the one-stop delivery system of the State and the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

''(D) identification and dissemination of information on best practices for effective operation of one-stop centers, including use of innovative business outreach, partnerships, and service delivery strategies, including for hard-to-serve populations; and

''(E) conduct of such other matters as may promote statewide objectives for, and enhance the performance of, the one-stop delivery system;'';

(6) in paragraph (5) (as redesignated by paragraph (4)), by inserting ''and the development of statewide criteria to be used by chief elected officials for the appointment of local boards consistent with section 117'' after ''section 116'';

(7) in paragraph (6) (as redesignated by paragraph (4)), by striking ''sections 128(b)(3)(B) and 133(b)(3)(B)'' and inserting ''sections 128(b)(3) and 133(b)(3)(B)'';

(8) in paragraph (9) (as redesignated by paragraph (4))—

(A) by striking ''employment statistics system'' and inserting ''workforce and labor market information system''; and

(B) by striking ''and'' after the semicolon;

(9) in paragraph (10) (as redesignated by paragraph (4))—

(A) by inserting ''section 136(i) and'' before ''section 503''; and

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

(10) by adding at the end the following:

''(11) increasing the availability of skills training, employment opportunities, and career advancement, for hard-to-serve populations.''.

(c) ALTERNATIVE ENTITY.—Section 111(e) (29 U.S.C. 2821(e)) is amended—

(1) in paragraph (1), by striking ''For'' and inserting ''Subject to paragraph (3), for''; and

(2) by adding at the end the following:

''(3) FAILURE TO MEET PERFORMANCE MEASURES.—If a State fails to have performed successfully, as defined 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).''.

(d) CONFLICT OF INTEREST.—Section 111(f)(1) (29 U.S.C. 2821(f)(1)) is amended by inserting ''or participate in action taken on'' 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 ''prior''; and

(2) by inserting '', and modifications to the State plan'' after ''the plan''.

(f) AUTHORITY TO HIRE STAFF.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

''(h) AUTHORITY TO HIRE STAFF.—

''(1) IN GENERAL.—The State board may hire staff to assist in carrying out 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 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 Investment Act Amendments of 2005.''.

SEC. 113. STATE PLAN.

(a) PLANNING CYCLE.—Section 112(a) (29 U.S.C. 2822(a)) is amended—

(1) by inserting '', or a State unified plan as described in section 501,'' before ''that outlines'';

(2) by striking ''5-year strategy'' and inserting ''4-year strategy''; and

(3) by adding at the end the following: ''At the end of the first 2-year period of the 4-year State plan, the State board shall review and, as needed, amend the 4-year State plan to reflect labor market and economic conditions. In addition, the State shall submit a modification to the State plan at the end of the first 2-year period of the State plan, which may include redesignation of local areas pursuant to section 116(a) and specification of the levels of performance under sections 136 for the third and fourth years of the plan.''.

(b) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraph (8)(A)—

(A) in clause (ix), by striking ''and'' after the semicolon; and

(B) by adding at the end the following:

''(xi) programs authorized 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 title XX 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 of 1973 (29 U.S.C. 796 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and'';

(2) by striking paragraph (10) and inserting the following:

''(10) a description of how the State will use funds the State received 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;'';

(3) 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)(B)'';

(4) in paragraph (14), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(5) in paragraph (15), by striking ''section 116(a)(5)'' and inserting ''section 116(a)(4)'';

(6) in paragraph (17)—

(A) in subparagraph (A)—

(i) in clause (iii)—

(I) by inserting ''local'' before ''customized training''; and

(II) by striking ''and'' at the end;

(ii) in clause (iv), by striking ''(including displaced homemakers),'' and all that follows through ''disabilities)'' and inserting '', hard-to-serve populations, and individuals training for nontraditional employment''; and

(iii) by adding after clause (iv) the following:

''(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), including the provision of outreach, intake, the conduct of assessments, service delivery, the development of adjustments to performance measures established under section 136, and the training of staff; and''; and

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

(7) in paragraph (18)(D)—

(A) by striking ''youth opportunity grants under section 169'' and inserting ''youth challenge grants authorized under section 169 and other federally funded youth programs''; and

(B) by striking the period and inserting a semicolon; and

(8) by adding at the end the following:

''(19) a description of how the State will utilize technology to facilitate access to services in remote areas, which may be utilized throughout the State;

''(20) a description of the State strategy for coordinating workforce investment activities and economic development activities, and promoting entrepreneurial skills training and microenterprise services;

''(21) a description of the State strategy and assistance to be provided for ensuring regional cooperation within the State and across State borders as appropriate;

''(22) a description of how the State will use funds the State receives under this subtitle to—

''(A) implement innovative programs and strategies designed to meet the needs of all

businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and other business services and strategies that better engage employers in workforce investment activities and make the statewide workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title; and

''(B) provide incentives and technical assistance to assist local areas in more fully engaging all employers, including small employers, in local workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts to contribute to the economic well-being of the local area, as determined appropriate by the local 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 opportunities, and career advancement activities, that will assist ex-offenders in reentering the workforce;

''(24) a description of how the State will assist local areas in assuring 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 on the coordinated provision of services through the one-stop 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) one-stop 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, education, or training that lead to comparable pay; and

''(27) a description of the technical assistance available to one-stop operators and providers of training services for strategies to serve hard-to-serve populations and promote placement in nontraditional employment.''.

(c) MODIFICATIONS TO PLAN.—Section 112(d) (29 U.S.C. 2822(d)) is amended—

(1) by striking ''5-year period'' and inserting ''4-year period''; and

(2) by adding at the end the following: ''In addition, the State shall submit the modifications to the State plan required under subsection (a), under circumstances prescribed by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.''.

SEC. 114. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) CONSIDERATIONS.—Section 116(a)(1) (29 U.S.C. 2831(a)(1)) is amended—

(A) in subparagraph (A), 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:

''(vi) The extent to which such local areas will promote maximum effectiveness in the administration and provision of services.''.

(2) AUTOMATIC DESIGNATION.—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, or of a modification to the State plan relating to area designation, from any area that—

''(i) is a unit of general local government with a population of 500,000 or more, 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 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) is served by a rural concentrated employment program grant recipient, except that after the initial 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 under this clause for such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity; or

''(iv) 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 that date of enactment, 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) DEFINITIONS.—For purposes of this paragraph:

''(i) PERFORMED SUCCESSFULLY.—The term 'performed successfully', when used with respect to a local area, means the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance described in section 136(b)(2)(A) for 2 consecutive years.

''(ii) SUSTAINED FISCAL INTEGRITY.—The term 'sustained fiscal integrity', used with respect to an area, means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the area misexpended funds provided under this title due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.''.

(3) CONFORMING AMENDMENTS.—Section 116(a) (29 U.S.C. 2831(a)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraph (3) and (4), respectively;

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(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.

(b) SINGLE LOCAL AREA STATES.—Section 116(b) (29 U.S.C. 2831(b)) is amended to read as follows:

''(b) 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, 2004, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a local area in the State plan under section 112(b)(5).

''(2) REDESIGNATION.—The Governor 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 or modification 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.''.

(c) REGIONAL PLANNING.—Section 116(c) (29 U.S.C. 2831(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PLANNING.—

''(A) 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 regional performance measures 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 134(a)(2)(B)(iii).

''(B) TECHNICAL ASSISTANCE.—If the State requires regional planning as provided in subparagraph (A), the State shall provide technical assistance and labor market information to such local areas in the designated regions to assist with such regional planning and subsequent service delivery efforts.'';

(2) in paragraph (2), by inserting ''information about the skill requirements of existing and emerging industries and industry clusters,'' after ''information about employment opportunities and trends,''; and

(3) in paragraph (3), by adding at the end the following: ''Such services may be required to be coordinated with regional economic development services and strategies.''.

SEC. 115. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) COMPOSITION.—Section 117(b) (29 U.S.C. 2832(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking subclause (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'';

(B) by striking clause (ii) and inserting the following:

''(ii)(I) a superintendent representing the local school districts involved or another high-level official from such districts;

''(II) the president or highest ranking official of an institution of higher education participating in the workforce investment activities in the local area; and

''(III) an administrator of local entities providing adult education and literacy activities in the local area;'';

(C) in clause (iv), by inserting '', hard-to-serve populations,'' after ''disabilities'';

(D) in clause (v), by striking ''and'' at the end; and

(E) by striking clause (vi) and inserting the following:

''(vi) a representative from the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) who is serving the local area; and

''(vii) if the local board does not establish or continue a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment; and'';

(2) by adding at the end the following:

''(6) SPECIAL RULE.—In the case that there are multiple school districts or institutions of higher education serving a local area, the representatives described in subclause (I) or (II) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.''.

(b) AUTHORITY OF BOARD MEMBERS.—Section 117(b)(3) (29 U.S.C. 2832(b)(3)) is amended—

(1) in the heading, by inserting ''AND REPRESENTATION'' after ''AUTHORITY''; and

(2) by adding at the end the following: ''The members of the board shall represent diverse geographic sections within the local area.''.

(c) CONFORMING AMENDMENT.—Section 117(c)(1)(C) (29 U.S.C. 2832(c)(1)(C)) is amended by striking ''section 116(a)(2)(B)'' and inserting ''section 116(a)(2)(A)(ii)''.

(d) FUNCTIONS.—Section 117(d) (29 U.S.C. 2832(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) by inserting ''(except as provided in section 123(b))'' after ''basis''; and

(ii) by inserting ''(where appropriate)'' after ''youth council''; and

(B) by adding at the end the following:

''(E) CONSUMER CHOICE REQUIREMENTS.—Consistent with sections 122 and paragraphs (3) and (4) of 134(d), the local board shall work to ensure there are sufficient providers of intensive services and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities.'';

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following:

''(ii) STAFF.—

''(I) IN GENERAL.—The local board may hire staff.

''(II) 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 Investment Act Amendments of 2005.'';

(3) in paragraph (4), by inserting '', and shall ensure the appropriate use and management of the funds provided under this subtitle for such programs, activities, and system'' after ''area'';

(4) in paragraph (6)—

(A) by striking ''EMPLOYMENT STATISTICS SYSTEM'' and inserting ''WORKFORCE AND LABOR MARKET INFORMATION SYSTEM''; and

(B) by striking ''employment statistics system'' and inserting ''workforce and labor market information system'';

(5) in paragraph (8)—

(A) by inserting '', including small employers,'' after ''private sector employers''; and

(B) by striking the period and inserting '', taking into account the unique needs of small businesses.''; and

(6) by adding at the end the following:

''(9) TECHNOLOGY IMPROVEMENTS.—The local board shall develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized 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) (29 U.S.C. 2832(g)(1)) is amended by inserting ''or participate in action taken on'' after ''vote.''

(g) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h) (29 U.S.C. 2832(h)) is amended to read as follows:

''(h) COUNCILS.—The local board may establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include—

''(1) a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved;

''(2) a youth council composed of experts and stakeholders in youth programs to advise 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 amended—

(1) in the matter preceding subparagraph (A), by striking ''and paragraphs (1) and (2) of subsection (h),'';

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

''(B) was in existence on August 7, 1998, pursuant to State law; and'';

(3) by striking subparagraph (C); and

(4) by redesignating subparagraph (D) as subparagraph (C).

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking ''5-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, as 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 inserting the following:

''(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system involved, in remote areas, including facilitating 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 accessibility for individuals with disabilities at one-stop centers;'';

(2) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(3) by redesignating paragraph (10) as paragraph (16); and

(4) by inserting after paragraph (9) the following:

''(10) a description of how the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area, and promote entrepreneurial skills training and microenterprise services;

''(11) a description of the strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts, which may include the implementation of innovative initiatives such as incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliance initiatives, career ladder programs, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of area employers and contribute to the economic well-being of the local area, as determined appropriate by the local board, consistent with the objectives of this title;

''(12) a description of how the local board will expand access to education and training services for eligible individuals who are in need of such services through—

''(A) the utilization of programs funded under this title; 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;

''(13) a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation, including public transportation, in the local area;

''(14) a description of plans for, assurances concerning, and strategies for maximizing coordination of services provided by the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services provided in the local area through the one-stop delivery system described in section 121(e), to improve service delivery and avoid duplication of services;

''(15) a description of how the local board will coordinate workforce investment activities carried out in the local area with other Federal, State, and local area education, job training, and economic development programs and activities; and''.

SEC. 117. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

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

''(A) ROLES AND RESPONSIBILITIES OF ONE-STOP PARTNERS.—Each entity that carries out a program or activities described in subparagraph (B) shall—

''(i) provide access through the one-stop 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 locations);

''(ii) use a portion of the funds available to the program of the entity to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(iii) enter into a local memorandum of understanding with the local board relating

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) provide representation on the State board to the extent provided under section 111.'';

(B) in subparagraph (B)—

(i) by striking clause (v);

(ii) by redesignating clauses (vi) through (xii) as clauses (v) through (xi), respectively;

(iii) in clause (x) (as redesignated by clause (ii)), by striking ''and'' at the end;

(iv) in clause (xi) (as redesignated by clause (ii)), by striking the period and inserting ''; and''; and

(v) by adding at the end the following:

''(xii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).''; and

(C) by adding at the end the following:

''(C) DETERMINATION BY THE GOVERNOR.—

''(i) IN GENERAL.—An entity that carries out programs referred to 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 of the State provides the notification described in clause (ii).

''(ii) NOTIFICATION.—The notification referred to in clause (i) is a notification that—

''(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and

''(II) is provided to the Secretary and the Secretary of Health and Human Services.''.

(2) ADDITIONAL PARTNERS.—

(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.—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)(B) (29 U.S.C. 2841(b)(2)(B)) is amended by striking clauses (i) through (iii) and inserting the following:

''(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);

''(ii) employment and training programs carried out by the Small Business Administration;

''(iii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));''.

(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) provisions describing—

''(i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated through such system;

''(ii) how the costs of such services and the operating costs of such system will be funded, through cash and in-kind contributions, to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(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 duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services; and''.

(c) CONFORMING AMENDMENT.—Section 121(d)(2) (29 U.S.C. 2841(d)(2)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(d) PROVISION OF SERVICES.—

(1) ELIMINATION OF PROVISIONS CONCERNING ESTABLISHED SYSTEMS.—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. 2864), 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 ''subsection (d)(2)'' and inserting ''section 134(d)(2)'';

(B) in subparagraph (B)—

(i) by striking ''subsection (d)'' and inserting ''section 134(d)'';

(ii) by striking ''individual training accounts'' and inserting ''career scholarship accounts''; and

(iii) by striking ''subsection (d)(4)(G)'' and inserting ''section 134(d)(4)(G)'';

(C) in subparagraph (C), by striking ''subsection (e)'' and inserting ''section 134(e)'';

(D) in subparagraph (D), by striking ''section 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 15(a)''.

(e) 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 local 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 under this subsection shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by 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 (h)(1)(B) and subsection (i), respectively, and such other factors relating to the quality, accessibility, and effectiveness of 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.—

''(i) 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).

''(ii) FAILURE 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 sufficient funding of the infrastructure costs 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.

''(B) GUIDANCE FOR INFRASTRUCTURE FUNDING.—In addition to carrying out the requirements relating to the State mechanism for one-stop center infrastructure funding described in paragraph (2), the Governor, after consultation with chief local elected officials, local boards, and the State board, and consistent with the guidelines provided by the State board under subsection (i), shall provide—

''(i) guidelines for State administered one-stop partner programs in determining such programs' contributions to and participation in the one-stop delivery system, including funding for the costs of infrastructure as defined in paragraph (2)(D), negotiated pursuant to the local memorandum of understanding under subsection (c); and

''(ii) guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

''(2) STATE ONE-STOP INFRASTRUCTURE FUNDING.—

''(A) PARTNER CONTRIBUTIONS.—

''(i) IN GENERAL.—Subject to clause (iii), a portion determined under clause (ii) of the Federal funds provided to the State and areas within the State under 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)(i)(I).

''(ii) DETERMINATION OF GOVERNOR.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (iii), the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided under clause (i) by each one-stop partner from each program described in clause (i). In making such determination, the Governor shall calculate the proportionate use of the one-stop centers for the purpose of determining funding contributions pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner. The Governor shall exclude from such determination the portion of funds and use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the infrastructure of one-stop centers is funded under the option described in paragraph (1)(A)(i)(I).

''(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 respect to the funds provided for adult education and literacy activities authorized under title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

''(III) APPEAL BY ONE-STOP PARTNERS.—The Governor shall establish a procedure for the one-stop partner administering a program described in subsection (b) to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with the requirements of this paragraph. Such procedure shall ensure prompt resolution of the appeal.

''(iii) LIMITATIONS.—

''(I) PROVISION FROM ADMINISTRATIVE FUNDS.—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program limitations with respect to the portion of funds under such program that may be used for administration.

''(II) CAP ON REQUIRED CONTRIBUTIONS.—

''(aa) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by the programs authorized under chapters 4 and 5 and under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each such program in the State for a fiscal year.

''(bb) OTHER ONE-STOP PARTNERS.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by a one-stop partner from a program described in subsection (b)(1) other than the programs described under item (aa) shall not be in excess of 1½ percent of the amount of Federal funds provided to carry out such program in the State for a fiscal year.

''(cc) SPECIAL RULE.—Notwithstanding items (aa) and (bb), an agreement, including a local memorandum of understanding, entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2005 by an entity regarding contributions under this title that permits the percentages described in such items to be exceeded, may continue to be in effect until terminated by the parties.

''(dd) VOCATIONAL REHABILITATION.—Notwithstanding items (aa) and (bb), an entity administering a program under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) shall not be required to provide, for the purposes of this paragraph, an amount in excess of—

''(AA) 0.75 percent of the amount provided for such program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2005;

''(BB) 1.0 percent of the amount provided for such program in the State for the third program year that begins after such date;

''(CC) 1.25 percent of the amount provided for such program in the State for the fourth program year that begins after such date; and

''(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.

''(III) FEDERAL DIRECT SPENDING PROGRAMS.—An entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for such program in the State.

''(IV) NATIVE AMERICAN PROGRAMS.—Native American programs established under section 166 shall not be subject to the provisions of this subsection or subsection (i). The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

''(B) ALLOCATION BY GOVERNOR.—From the funds provided under subparagraph (A), the Governor shall allocate the funds to local areas in accordance with the formula established under subparagraph (C) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

''(C) ALLOCATION FORMULA.—The State board shall develop a formula to be used by the Governor to allocate the funds provided under subparagraph (A) to local areas not funding infrastructure costs under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

''(D) COSTS OF INFRASTRUCTURE.—In this subsection, the term 'costs of infrastructure', used with respect to a one-stop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including assessment-related products and adaptive technology for individuals with disabilities), and technology to facilitate remote access to the one-stop center's strategic planning activities, and common outreach activities.

''(i) OTHER FUNDS.—

''(1) IN GENERAL.—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (2), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of core services described in section 134(d)(2) applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

''(2) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the 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:

''SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The Governor, after consultation with the State board, shall establish criteria and 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—

''(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

''(ii) provides a program that leads to an associate degree, baccalaureate degree, or industry-recognized certification;

''(B) an entity that carries out programs under the Act of August 16, 1937 (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 (C) of paragraph (2) 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). A provider described in paragraph (2)(B) shall be included on the list of eligible providers of training services described in subsection (d)(1) for so long as the provider remains certified by the Department of Labor to carry out the programs described in paragraph (2)(B).

''(b) CRITERIA.—

''(1) IN GENERAL.—The criteria established by the Governor pursuant to subsection (a) shall take into account—

''(A) the performance of providers of training services with respect to the 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);

''(B) the need to ensure access to training services throughout the State, including any rural areas;

''(C) 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;

''(D) the requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable;

''(E) to the extent practicable, encouraging the use of industry-recognized standards and certification;

''(F) the ability 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 are appropriate to ensure—

''(i) the quality of services provided;

''(ii) the accountability of the providers;

''(iii) that the one-stop centers in the State will 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 require that a provider of training services submit appropriate, accurate, and timely information to the State for purposes of carrying out subsection (d), with respect to participants receiving training services under this subtitle in the applicable program, including—

''(A) information on degrees and industry-recognized certifications received by such participants;

''(B) information on costs of attendance for such participants;

''(C) information on the program completion rate for such participants; and

''(D) information on the performance of the provider with respect to the performance measures described in section 136 for such participants (taking into consideration the characteristics of the population served and relevant economic conditions), which may include information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program.

''(3) RENEWAL.—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 as providers of training services. The criteria established by the Governor shall require that a provider who has not previously been an eligible provider of training services under this section provide the information described in subparagraph (B).

''(B) INFORMATION.—The provider shall provide verifiable program-specific performance information supporting the provider's ability to serve participants under this subtitle. The information provided under this subparagraph may include information on outcome measures such as job placement and wage increases for individuals participating in the program, information on business partnerships and other factors that indicate high-quality training services, and information on alignment with industries targeted for potential employment opportunities.

''(C) PROVISION.—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 inclusion of the provider on the list of eligible 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 provided under section 133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section, that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

''(d) INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.—In order to facilitate and assist participants in choosing employment and training activities 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 one-stop delivery system in the State. The accompanying information shall consist of information provided by providers described in subparagraphs (A) and (C) of subsection (a)(2) in accordance with subsection (b) (including information on receipt of degrees and industry-recognized certifications, and costs of attendance, for participants receiving training services 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 chapter 5 shall be terminated for a period of time that is not less than 2 years.

''(B) SUBSTANTIAL VIOLATIONS.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services substantially violated any requirement under this title, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

''(C) 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 a period of noncompliance described in such subparagraph.

''(2) CONSTRUCTION.—Paragraph (1) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

''(f) AGREEMENTS WITH OTHER STATES.—States may enter 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, requirements for information, and the list of eligible providers described in subsection (d)(1), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, procedures, requirements for information, and list.

''(h) TRANSITION PERIOD FOR IMPLEMENTATION.—The requirements of this section shall be implemented not later than December 31, 2006. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 as such chapter was in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005 may continue to be eligible to provide such services until December 31, 2006, or until such earlier date as the Governor determines to be appropriate.

''(i) ON-THE-JOB TRAINING, CUSTOMIZED TRAINING, OR INCUMBENT WORKER TRAINING EXCEPTION.—

''(1) IN GENERAL.—Providers of on-the-job training, customized training, or incumbent worker training shall not be subject to the requirements of subsections (a) through (h).

''(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, and incumbent worker training as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.''.

SEC. 119. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

Section 123 (29 U.S.C. 2843) is amended to read as follows:

''SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

''(a) IN GENERAL.—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan described in section 112 and shall conduct oversight with respect to such providers.

''(b) EXCEPTIONS.—A local board may award grants or contracts on a sole-source basis if such board determines there is an insufficient number of eligible providers of youth activities in the local area involved (such as a rural area) for grants and contracts to be awarded on a competitive basis under subsection (a).''.

SEC. 120. YOUTH ACTIVITIES.

(a) STATE ALLOTMENTS.—Section 127 (29 U.S.C. 2852) is amended—

(1) in subsection (a)(1), by striking ''opportunity'' and inserting ''challenge''; and

(2) by striking subsection (b) and inserting the following:

''(b) ALLOTMENT AMONG STATES.—

''(1) YOUTH ACTIVITIES.—

''(A) YOUTH CHALLENGE GRANTS AND YOUTH ACTIVITIES FOR FARMWORKERS AND NATIVE AMERICANS.—

''(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth activities under section 167 (relating to migrant and seasonal farmworker programs) and provide youth challenge grants and other activities under section 169 (relating to youth challenge grants).

''(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

''(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

''(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

''(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—For a 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 youth activities 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 youth activities 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 clause (i) or (iii), the Secretary shall reserve not more than 1½ percent of such appropriated amount to provide youth activities under section 166 (relating to Native Americans).

''(B) OUTLYING AREAS.—

''(i) 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.

''(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

''(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

''(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on 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.

''(III) 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—

''(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

''(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

''(cc) such other information and assurances as the Secretary may require.

''(IV) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

''(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

''(C) STATES.—

''(i) IN GENERAL.—From the remainder of the amount appropriated under section 137(a) for a fiscal year that exists after the Secretary determines the amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot to the States—

''(I) an amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2005 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), in accordance with the requirements of such section 127(b)(1)(C); and

''(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I), in accordance with clause (ii).

''(ii) FORMULA.—Subject to clauses (iii) and (iv), of the amount described in clause (i)(II)—

''(I) 33⅓ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all States;

''(II) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

''(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

''(iii) MINIMUM AND MAXIMUM PERCENTAGES.—

''(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

''(II) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

''(iv) SMALL STATE MINIMUM ALLOTMENT.—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

''(I) 3/10 of 1 percent of $1,000,000,000 of the remainder described in clause (i) for the fiscal year; and

''(II) if the remainder described in clause (i) for the fiscal year exceeds $1,000,000,000, 2/5 of 1 percent of the excess.

''(2) DEFINITIONS.—For the purposes of paragraph (1):

''(A) ALLOTMENT PERCENTAGE.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received by the State involved through an allotment made under this subsection for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the State involved for fiscal year 2005.

''(B) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term 'disadvantaged youth' means an individual who is age 16 through 21 who 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 the higher of—

''(i) the poverty line; or

''(ii) 70 percent of the lower living standard income level.

''(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.

''(3) SPECIAL RULE.—For purposes of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.''.

(b) REALLOTMENT.—

(1) AMENDMENT.—Section 127(c) (29 U.S.C. 2852(c)) is amended—

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

''(2) AMOUNT.—The amount available for reallotment for a program year 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 this section during such prior program year (including amounts allotted to the State 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 State under this section 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 that remained available); and

''(B) the accrued expenditures during such prior program year.'';

(B) in paragraph (3)—

(i) by striking ''for the prior program year'' and inserting ''for the program year for which the determination is made''; and

(ii) by striking ''such prior program year'' and inserting ''such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(2) 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.

(c) WITHIN STATE ALLOCATIONS.—

(1) RESERVATION FOR STATEWIDE ACTIVITIES.—Section 128(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 each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

''(2) USE OF FUNDS.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide activities under section 129(b) or statewide employment and training activities, for adults or dislocated workers, under section 134(a).''.

(2) 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 section 127(b)(1)(C) and not reserved under subsection (a)(1)—

''(A) a portion equal to not less 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).

''(2) ESTABLISHED FORMULA.—

''(A) IN GENERAL.—Of the portion described in paragraph (1)(A), the Governor shall allocate—

''(i) 33⅓ 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) 33⅓ 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) 33⅓ 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 shall receive 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:

''(i) ALLOCATION PERCENTAGE.—The term 'allocation percentage', used with respect to fiscal year 2006 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 day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the local area involved for fiscal year 2005.

''(ii) DISADVANTAGED YOUTH.—The term 'disadvantaged youth' means an individual who—

''(I) is age 16 through 21;

''(II) is not a college 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 the higher 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 local areas where there are a significant number of eligible youth, after 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 activities under this chapter or chapter 5.

''(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (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) of'';

(ii) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallocation for a program year 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 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.

(d) YOUTH PARTICIPANT ELIGIBILITY.—Section 129(a) (29 U.S.C. 2854(a)) is amended to read as follows:

''(a) YOUTH PARTICIPANT ELIGIBILITY.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

''(B) OUT-OF-SCHOOL YOUTH.—In this title the term 'out-of-school youth' means an individual who is—

''(i) not younger than age 16 nor older than age 21; and

''(ii) one of the following:

''(I) A school dropout.

''(II) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

''(III) 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 attending any school.

''(IV) Subject to the juvenile or adult justice system or ordered by a court to an alternative school.

''(V) A low-income individual who is pregnant or parenting and not attending any school.

''(VI) A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(VII) A low-income individual who is not attending school and requires additional assistance to enter or complete an educational program or to secure or hold employment.

''(C) IN-SCHOOL YOUTH.—In this section the term 'in-school youth' means an individual who is—

''(i) not younger than age 14 nor older than age 21;

''(ii) a low-income individual; and

''(iii) one or more of the following:

''(I) Deficient in basic literacy skills, including limited English proficiency.

''(II) Homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(III) Pregnant or parenting.

''(IV) An offender (other than an individual described in subparagraph (B)(ii)(IV)).

''(V) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

''(2) EXCEPTION.—Not more than 5 percent of the individuals assisted under this section in each local area, in the case of individuals for whom low income is a requirement for eligibility under this section, may be individuals who are not low income.

''(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 funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B).

''(B) EXCEPTION.—A State that receives a minimum allotment under section 127(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)(II) 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 will be 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; and

''(ii)(I) 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.

''(4) CONSISTENCY WITH COMPULSORY 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.''.

(e) STATEWIDE ACTIVITIES.—Section 129(b) (29 U.S.C. 2854(b)) is amended to read as follows:

''(b) STATEWIDE ACTIVITIES.—

''(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(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—

''(A) conducting—

''(i) 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 region as described in section 116(c)), for local coordination of activities carried out under this title, and for performance by local areas as described in section 136(i)(2);

''(C) providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, 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 and chapter 5, which may include a review comparing the services provided to male and female youth;

''(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 advanced 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 in the State; and

''(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 significance 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 common 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, evaluate, and compare financial products, services, and opportunities;

''(vii) supporting the ability to understand resources that are easily accessible and affordable, and that 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 of market intermediaries;

''(viii) increasing awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improving the development and distribution of multilingual financial literacy and education materials;

''(ix) promoting bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining accounts with financial institutions; and

''(x) improving financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

''(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 may be used to develop or implement education curricula for school systems in the State.''.

(f) 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 (3), as appropriate, of'';

(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 participant 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))—

(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 (20 U.S.C. 6311)'' after ''academic''; and

(II) 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.''.

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking ''secondary school, including dropout prevention strategies'' and inserting ''the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative standards for individuals with disabilities) or for another recognized credential, including dropout prevention strategies'';

(B) in subparagraph (B), by inserting '', with a priority on exposing youth to technology and nontraditional jobs'' before the semicolon;

(C) in subparagraph (F), by striking ''during 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 the following:

''(K) on-the-job training opportunities;

''(L) opportunities to acquire financial literacy skills;

''(M) entrepreneurial skills training and microenterprise services; and

''(N) information about average wages 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 minimum income 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 paragraph (4), is further amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively;

(B) in paragraph (4) (as redesignated by subparagraph (A))—

(i) by striking subparagraph (B); and

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

(C) in paragraph (5) (as redesignated by subparagraph (A)), by striking ''youth councils'' and inserting ''local boards''.

SEC. 121. ADULT AND DISLOCATED WORKER EMPLOYMENT 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 under subsection (a)(4), (f), and (g)'' and inserting ''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 inserting 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 unemployment 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, compared 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, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).'';

(C) in paragraph (1)(B)—

(i) in clause (iii), 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 fiscal year.'';

(II) in subclause (II), by striking ''subclauses (I), (III), and (IV)'' and inserting ''subclauses (I) and (III)''; and

(III) by striking subclause (IV); and

(iii) in clause (v), by striking subclause (VI); and

(D) in paragraph (2)(A)(ii), by striking ''section 127(b)(1)(B)'' and all that follows and inserting ''section 127(b)(1)(B).''.

(3) REALLOTMENT.—Section 132(c) (29 U.S.C. 2862(c)) is amended—

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

''(2) AMOUNT.—The amount available for reallotment for a program year for programs

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 to the State under subsection (b)(1)(B) or (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

''(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.'';

(B) in paragraph (3)—

(i) 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 the program year for which the determination is made''; and

(ii) by striking ''under this section for such activities for such prior program year'' and inserting ''under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means—

''(A) with respect to funds allotted under subsection (b)(1)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

''(B) with respect to funds allotted under subsection (b)(2)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(4) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(b) WITHIN STATE ALLOCATIONS.—

(1) ALLOCATION.—Section 133(b)(2)(A)(i) (29 U.S.C. 2863(b)(2)(A)(i)) is amended—

(A) in subclause (I), by striking ''33⅓ percent'' and inserting ''40 percent'';

(B) in subclause (II), by striking ''33⅓ percent'' and inserting ''25 percent''; and

(C) in subclause (III), by striking ''33⅓ percent'' and inserting ''35 percent''.

(2) TRANSFER AUTHORITY.—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 121(e)''.

(4) REALLOCATION.—Section 133(c) (29 U.S.C. 2863(c)) is amended—

(A) in paragraph (1), by inserting '', and under 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) and (3) of subsection (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 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 prior to the program year for which the determination is made (including amounts allotted to the local area in all prior program years under such provisions that remained available); 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 such prior program year.'';

(C) by striking paragraph (3) and inserting the following:

''(3) 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 within 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 paragraphs (2)(A) or (3) of subsection (b), as appropriate, for such program year; and

''(B) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under subsection (b)(2)(B), an amount based on the relative amount allocated to such local area under subsection (b)(2)(B) 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

(D) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means—

''(A) with respect to funds 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

''(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.''.

(5) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(c) USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—Section 134(a)(2)(A) (29 U.S.C. 2864(a)(2)(A)) is amended to read as follows:

''(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—

''(i) IN GENERAL.—A State shall carry out statewide rapid response activities using funds reserved by a Governor for a State under section 133(a)(2). Such activities shall include—

''(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and

''(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.

''(ii) USE OF UNEXPENDED FUNDS.—Funds reserved under section 133(a)(2) to carry out this subparagraph that remain unexpended after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) and paragraph (3)(A) in addition to activities under this subparagraph.''.

(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2) (29 U.S.C. 2864(a)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 127(b)(1)(C) or paragraphs (1)(B) or (2)(B) of section 132(b)) shall be used for statewide employment and training activities, including—

''(i) disseminating—

''(I) the State list of eligible providers of training services, including eligible providers of nontraditional training services and eligible providers of apprenticeship programs described in section 122(a)(2)(B);

''(II) information identifying eligible providers of on-the-job training, customized training, and incumbent worker training;

''(III) information on effective business outreach, partnerships, and services;

''(IV) performance information and information on costs of attendance, as described in subsections (d) and (i) of section 122; and

''(V) information on physical and programmatic accessibility for individuals with disabilities;

''(ii) conducting 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;

''(iii) providing incentive grants to local areas, in accordance with section 136(i);

''(iv) developing strategies for ensuring that activities carried out under this section are placing men and women in jobs, education, and training that lead to comparable pay;

''(v) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), which may include

the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations;

''(vi) operating a fiscal and management accountability system under section 136(f); and

''(vii) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4.''.

(C) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(3)(A) (29 U.S.C. 2864(a)(3)(A) is amended to read as follows:

''(A) IN GENERAL.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or 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 worker training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneurial training and support programs, utilization of effective business intermediaries, activities to improve linkages between the one-stop delivery system 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 title;

''(ii) developing strategies for effectively serving hard-to-serve 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) implementing programs to increase the number of individuals training for and placed in nontraditional employment;

''(v) carrying out 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 delivery system in the State;

''(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677);

''(viii) activities—

''(I) 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;

''(II) 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. 651 et seq.);

''(III) to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

''(IV) to improve 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, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a);

''(V) to develop and disseminate workforce and labor market information;

''(VI) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will assist ex-offenders in reentering the workforce; and

''(VII) to promote financial literacy, including carrying out activities described in section 129(b)(1)(I);

''(ix) conducting—

''(I) research; and

''(II) demonstration projects; and

''(x) adopting, calculating, or commissioning a minimum 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.''.

(2) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) ALLOCATED FUNDS.—Section 134(d)(1)(A) (29 U.S.C. 2864(d)(1)(A)) is amended—

(i) in clause (i), by striking ''described in subsection (c)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) in clause (iv), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(v) to designate a dedicated business liaison in the local area who may be funded with funds provided under this title or from other sources to establish and develop relationships and networks with large and small employers and their intermediaries; and

''(vi) in order to improve service delivery to avoid duplication of services and enhance coordination of services, to require the colocation of employment services provided under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) at the one-stop centers.''.

(B) CORE SERVICES.—Section 134(d)(2) (29 U.S.C. 2864(d)(2)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)'';

(ii) in subparagraph (C), by inserting ''(including literacy, numeracy, and English language proficiency)'' after ''skill levels'';

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

''(D) labor exchange services, including—

''(i) job search and placement assistance and, in appropriate cases, career counseling, including—

''(I) exposure to high wage, high skill jobs; and

''(II) nontraditional employment; and

''(ii) appropriate recruitment and other business services for all employers, including small employers, in the local area, which may include services described in this subsection, including information and referral to specialized business services not traditionally offered through the one-stop delivery system;'';

(iv) in subparagraph (E)(iii)—

(I) by inserting '', career ladders,'' after ''earnings''; and

(II) by striking ''and'' at the end;

(v) in subparagraph (F)—

(I) by striking ''and program cost information''; and

(II) by striking ''described in section 123'';

(vi) by striking subparagraph (H) and inserting the following:

''(H) provision of accurate information, in formats that are usable and understandable to all one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area, and referral to such services or assistance as appropriate;''; and

(vii) in subparagraph (J), by striking ''for—'' and all that follows through ''(ii) programs'' and inserting ''for programs''.

(C) INTENSIVE SERVICES.—Section 134(d)(3) (29 U.S.C. 2864(d)(3)) is amended—

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

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), 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), shall be used to provide intensive services to adults and dislocated workers, respectively—

''(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

''(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

''(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

''(II) who are employed, but who, after an interview, evaluation, or assessment are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.''; and

(ii) in subparagraph (C)—

(I) in clause (v), by striking ''for participants seeking training services under paragraph (4)''; and

(II) by adding at the end the following:

''(vii) Internships and work experience.

''(viii) Literacy activities relating to basic work readiness.

''(ix) Financial literacy services, such as activities described in section 129(b)(1)(I).

''(x) Out-of-area job search assistance and relocation assistance.

''(xi) English language acquisition and integrated training programs.''.

(D) TRAINING SERVICES.—Section 134(d)(4) (29 U.S.C. 2864(d)(4)) is amended—

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

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), 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), shall be used to

provide training services to adults and dislocated workers, respectively—

''(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

''(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

''(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

''(cc) have the skills and qualifications to successfully participate in the selected program of training services;

''(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

''(III) who meet the requirements of subparagraph (B); and

''(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.'';

(ii) in subparagraph (B)(i), by striking ''Except'' and inserting ''Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except'';

(iii) in subparagraph (D)—

(I) in clause (viii), by striking ''and'' after the semicolon;

(II) in clause (ix), by striking the period and inserting ''; and''; and

(III) by adding at the end the following:

''(x) English language acquisition and integrated training programs.'';

(iv) in subparagraph (F)—

(I) in clause (ii), by striking ''referred to in subsection (c), shall make available—'' and all that follows and inserting ''shall make available a list of eligible providers of training services, and accompanying information, in accordance with section 122(d).'';

(II) in the heading of clause (iii), by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(III) in clause (iii)—

(aa) by striking ''identifying information'' and inserting ''accompanying information'';

(bb) by striking ''clause (ii)(I)'' and inserting ''clause (ii)''; and

(cc) by striking ''an individual training account'' and inserting ''a career scholarship account''; and

(IV) by adding at the end the following:

''(iv) COORDINATION.—Each local board may, through one-stop centers, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.''; and

(v) in subparagraph (G)—

(I) in the subparagraph heading, by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(II) in clause (i), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(III) in clause (ii)—

(aa) by striking ''an individual training account'' and inserting ''a career scholarship account'';

(bb) in subclause (II), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(cc) in subclause (II) by striking ''or'' after the semicolon;

(dd) in subclause (III), by striking ''special participant populations that face multiple barriers to employment'' and inserting ''hard-to-serve populations'';

(ee) in subclause (III), 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 facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.''; and

(IV) in clause (iv)—

(aa) by redesignating 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. 2864(e)) is amended—

(A) by striking the matter preceding paragraph (2) and inserting the following:

''(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ACTIVITIES.—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, through 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 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 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 through the use of technology;

''(ix) activities—

''(I) to improve coordination between workforce investment activities carried out within the local area involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services; and

''(II) to improve services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers in the local area, through services described in this section, including subparagraph (B);

''(x) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;

''(xi) using a portion of the funds allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area employers, as determined by the local board, consistent with the local plan under section 118, which services—

''(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 leveraging 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 sectoral, industry cluster, regional 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 workforce investment activities and to make 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, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

''(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

''(i) IN GENERAL.—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, through the one-stop delivery system involved, work support activities designed 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 and resources provided under this subparagraph.

''(ii) ACTIVITIES.—The activities described in clause (i) may include the provision of activities described in 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 activities 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) by adding 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 regarding 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 avert layoffs.

''(C) EMPLOYER SHARE REQUIRED.—

''(i) IN GENERAL.—Employers participating in the 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 of the employers. 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—

''(I) 10 percent of the costs, for employers with 50 or fewer employees;

''(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.

''(ii) CALCULATION 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 attending 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 (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129'';

(ii) by striking subclause (III) 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 ''unsubsidized employment''; and

(B) by striking clause (ii) and inserting the following:

''(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance for youth activities authorized under section 129 shall consist of—

''(I) entry into employment, education or advanced training, or military service;

''(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 employee representatives where applicable, 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.''.

(3) LEVELS OF PERFORMANCE.—Section 136(b)(3)(A) (29 U.S.C. 2871(b)(3)(A)) is amended—

(A) in clause (iii)—

(i) in the heading, by striking ''FOR FIRST 3 YEARS'';

(ii) by striking ''and the customer satisfaction indicator of performance, for the first 3'' and inserting ''described in clauses (i) and (ii) of paragraph (2)(A) and the customer satisfaction indicator of performance, for the first 2''; and

(iii) by inserting at the end the following: ''Agreements on levels of performance for each of the core indicators of performance for the third and fourth program years covered by the State plan shall be reached prior to the beginning of the third program year covered by the State plan, and incorporated as a modification to the State plan.'';

(B) in clause (iv)—

(i) in the matter preceding subclause (I), by striking ''or (v)'';

(ii) in subclause (II)—

(I) by striking ''taking into account'' and inserting ''and shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(II) by inserting ''(such as differences in unemployment rates and job losses or gains in particular industries)'' after ''economic conditions'';

(III) by inserting ''(such as indicators of poor work history, 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 ''program''; and

(IV) by striking ''and'' at the end;

(iii) in subclause (III), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(IV) the extent to which the levels involved will assist the State in meeting the national goals described in clause (v).'';

(C) by striking clause (v) and inserting the following:

''(v) ESTABLISHMENT OF NATIONAL GOALS.—In order to promote enhanced performance outcomes on the performance measures and to facilitate the process of reaching agreements with the States under clause (iii) and to measure systemwide performance for the one-stop delivery systems of the States, the Secretary shall establish long-term national goals for the adjusted levels of performance for that systemwide performance to be achieved by the programs assisted under chapters 4 and 5 on the core indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2). Such goals shall be established in accordance with the Government Performance and Results Act of 1993 in consultation with the States and other appropriate parties.''; and

(D) in clause (vi)—

(i) by striking ''or (v)''; and

(ii) by striking ''with the representatives described in subsection (i)'' and inserting ''with the States and other interested parties''.

(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''.

(c) REPORT.—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 under subsection (a)(3)(A)(i) or (e)(1)(A)(xi), respectively, of section 134, the report also shall include the amount of such funds so expended and the percentage that such funds are of the funds available for activities under section 134.'';

(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,'' after ''displaced homemakers,''; and

(ii) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(G) 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)(3), and training services described in section 134(d)(4), respectively;

''(I) the number of participants who have received followup services authorized under this title;

''(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)(3)(A)(i) or (e)(1)(A)(xi) of section 134, if applicable.''; and

(3) by adding at the end the following:

''(4) DATA VALIDATION.—In preparing the reports described in this subsection, 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 information on promoting self-sufficiency and comparable pay between men and women'' after ''employers''.

(e) SANCTIONS FOR STATE.—Section 136(g) is amended—

(1) in paragraph (1)(B), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a State performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years''; and

(2) in paragraph (2), by striking ''section 503'' and inserting ''subsection (i)(1)''.

(f) SANCTIONS FOR LOCAL AREA.—Section 136(h)(2)(A) (29 U.S.C. 2871(h)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a local area performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years'';

(2) in clause (ii), by striking ''or'' after the semicolon;

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following:

''(iii) redesignate the local area in accordance with section 116(b)(2); or''.

(g) INCENTIVE GRANTS.—Section 136(i) (29 U.S.C. 2871(i)) is amended to read as follows:

''(i) INCENTIVE GRANTS FOR LOCAL AREAS.—

''(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

''(2) BASIS.—The Governor shall award the grants on the basis that the local areas—

''(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

''(B) have—

''(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in the State in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment services under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under this title as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under this title;

''(cc) implementation of coordination activities through agreements with relevant regional or local agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) regional coordination with other local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor, including—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) 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.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support regional economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of an integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs;

''(G) activities that support activities to improve performance and program coordination with other training providers; or

''(H) activities that leverage additional training resources for adults and youth.

''(4) TECHNICAL ASSISTANCE.—The Governor shall reserve 4 percent of the funds available for grants under this subsection to provide technical assistance to local areas to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and regional economic development.''.

(h) USE OF CORE MEASURES IN OTHER DEPARTMENT OF LABOR PROGRAMS.—Section 136 (29 U.S.C. 2871) is amended by adding at the end the following:

''(j) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2) to assess the effectiveness of the programs described in clauses (i), (ii), and (vi) of section 121(b)(1)(B) that are carried out by the Secretary.''.

(i) PREVIOUS DEFINITIONS OF CORE INDICATORS.—Section 502 (29 U.S.C. 9272) is repealed.

SEC. 123. 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 ACTIVITIES.—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 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''.

Subtitle C—Job Corps

SEC. 131. JOB CORPS.

(a) ELIGIBILITY.—Section 144(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'' after the semicolon;

(2) in subparagraph (C), by striking the period and inserting ''; and''; 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 and distant''; and

(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, employers 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 industry council shall include a representative of the State Board.''.

(d) INDICATORS OF PERFORMANCE.—Section 159 (29 U.S.C. 2899) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

''(1) PERFORMANCE INDICATORS.—The Secretary shall annually establish expected levels 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 136(b)(2)(A)(ii).'';

(B) in paragraph (2), by striking ''measures'' each place it appears and inserting ''indicators''; and

(C) in paragraph (3)—

(i) in the first sentence, by striking ''core performance measures, as compared to the expected performance level for each performance measure'' 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

(ii) in the second sentence, by striking ''measures'' each place it appears and inserting ''indicators''; and

(2) in subsection (f)(2), in the first sentence, by striking ''core performance measures'' and inserting ''indicators of performance''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 161 (29 U.S.C. 2901) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

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 administration of the programs assisted under this section, including the selection of the individual appointed as head of the unit established under paragraph (1).''.

(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 provide assistance 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 job 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:

''(k) 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 ''2'' and inserting ''2 to 4'';

(2) in subsection (b), by inserting ''and deliver'' 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)—

(I) by inserting ''describe the population to be served and'' before ''identify''; and

(II) by inserting '', including upgraded employment in agriculture'' before the semicolon;

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

(iii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(D) describe the availability and accessibility of local resources such as supportive services, services provided through one-stop delivery systems, 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

(C) by striking 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.'';

(4) in subsection (d), by striking ''include'' and all that follows and inserting ''include outreach, employment, training, educational assistance, literary assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent housing), supportive services, school dropout prevention activities, followup 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 subsection (c), customized career and technical education in occupations that will lead to higher wages, enhanced benefits, and long-term employment in agriculture or another area, and technical assistance to improve coordination of services and implement best practices relating to service delivery through one-stop delivery systems.'';

(5) in subsection (f), by striking ''take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.'' and inserting ''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—

''(A) was claimed as a dependent on the farmworker's Federal income tax return for the previous year;

''(B) is the spouse of the farmworker; or

''(C) is able to establish—

''(i) 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) stepfather 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''; and

(ii) by inserting ''and who faces multiple barriers to self-sufficiency'' before the semicolon;

(8) by redesignating subsection (h) as subsection (i); and

(9) by inserting before subsection (i) the following:

''(h) FUNDING ALLOCATION.—From the funds appropriated and made available to carry out this section, the Secretary shall reserve not more than 1 percent for discretionary purposes, such as providing technical assistance to eligible entities.''

SEC. 143. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

Section 168(a)(3) (29 U.S.C. 2913(a)(3)) is amended—

(1) in subparagraph (A), by inserting '', including services provided by one-stop operators and one-stop partners'' before the semicolon; and

(2) in subparagraph (C), by striking ''section 134(c)'' and inserting ''section 121(e)''.

SEC. 144. YOUTH CHALLENGE GRANTS.

Section 169 (29 U.S.C. 2914) is amended to read as follows:

''SEC. 169. YOUTH CHALLENGE GRANTS.

''(a) IN GENERAL.—Of the amounts reserved by the Secretary under section 127(b)(1)(A) for a fiscal year—

''(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

''(2) the Secretary may use not more than 20 percent to award competitive grants under subsection (c).

''(b) COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.—

''(1) ESTABLISHMENT.—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this subsection to assist eligible youth in acquiring the skills, credentials, and employment experience necessary to achieve the performance outcomes for youth described in section 136.

''(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

''(A) a State or consortium of States;

''(B) a local board or consortium of local boards;

''(C) a recipient of a grant under section 166 (relating to Native American programs); or

''(D) a public or private entity (including a consortium of such entities) with expertise in the provision of youth activities, applying in partnership with a local board or consortium of local boards.

''(3) 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, including—

''(A) a description of the activities the eligible entity will provide to eligible youth under this subsection, and how the eligible entity will collaborate with State and local workforce investment systems established under this title in the provision of such activities;

''(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities 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 subparagraph (A) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in the 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)(ii); 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).

''(4) FACTORS FOR AWARD.—

''(A) IN GENERAL.—In awarding grants under this subsection the Secretary shall consider—

''(i) the quality of the proposed activities;

''(ii) the goals to be achieved;

''(iii) the likelihood of successful implementation;

''(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;

''(v) the extent of collaboration with the State and local workforce investment systems in carrying out the proposed activities;

''(vi) the extent of employer involvement in the proposed activities;

''(vii) whether there are other Federal and 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 to be served; and

''(ix) the extent to which the proposed activities will expand on services provided under section 127.

''(B) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds 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 14 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 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) EVALUATION.—The Secretary shall reserve not more than 3 percent of the funds described in subsection (a)(1) to provide technical assistance to, and conduct evaluations of (using appropriate techniques as described in section 172(c)), the projects funded under this subsection.

''(c) COMPETITIVE FIRST JOBS FOR YOUTH.—

''(1) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a consortium that—

''(A) shall include—

''(i)(I) a State board; or

''(II) a local board; and

''(ii) a consortium of businesses, including small businesses; and

''(B) may include 1 or more—

''(i) local educational agencies;

''(ii) institutions of higher education;

''(iii) business intermediaries;

''(iv) community-based organizations; or

''(v) apprenticeship programs.

''(2) AUTHORIZATION.—From the funds described in subsection (a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, entering, and retaining employment.

''(3) 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, including—

''(A) a description of the area to be served, including information demonstrating that the area has—

''(i) high unemployment among individuals ages 16 through 21;

''(ii) high unemployment among youth who are individuals with disabilities; or

''(iii) high job loss;

''(B) a description of the proposed program, 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;

''(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.

''(4) EQUITABLE DISTRIBUTION TO RURAL AREAS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants to rural areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out—

''(i) activities that will assist youth in preparing for, entering, and retaining employment, including the activities described in section 129 for out-of-school youth;

''(ii) activities designed to strengthen academic skills that would assist—

''(I) in-school participants to be successful in secondary school and continue such participants' education; and

''(II) out-of-school youth to earn a high school diploma or its recognized equivalent, or prepare for postsecondary programs;

''(iii) activities designed to assist youth in economically distressed areas;

''(iv) subsidized employment for not more than 9 months that provides direct experience in a sector that has opportunities for full-time employment;

''(v) career and academic advisement, activities to promote financial literacy and the attainment of entrepreneurial skills, and labor market information on high-skill, high-wage, and nontraditional occupations; and

''(vi) such other activities as the Secretary determines are appropriate to ensure that youth entering the workforce have the skills needed by employers.

''(B) PARTICIPANT ELIGIBILITY.—An individual who is not younger than 16 years of age and not older than 21 years of age, as of the time the eligibility determination is made, who face barriers to employment, 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 other appropriate 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 172(c).''.

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, peer review 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 adding at 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:

''(c) BEST PRACTICES COORDINATION.—The Secretary shall—

''(1) establish a system through which States may share information regarding best practices with regard to the operation of workforce investment activities under this Act;

''(2) evaluate and disseminate information regarding best practices and identify knowledge gaps; and

''(3) commission research under section 171(c) to address knowledge gaps identified under paragraph (2).''.

SEC. 146. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) DEMONSTRATION AND PILOT PROJECTS.—Section 171(b) (29 U.S.C. 2916(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''Under a'' and inserting ''Consistent with the priorities specified in the'';

(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 system on skills and occupations in demand;

''(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this title;

''(C) projects that focus on opportunities for employment in industries and sectors of

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 training projects targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment in the operations, repair, and maintenance of high-tech equipment that is used in integrated systems technology;

''(E) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;'';

(C) in subparagraph (G), by striking ''and'' after the semicolon; and

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

''(H) projects that provide retention grants, which shall—

''(i) be made to qualified job training programs offering instruction, assessment, or professional coaching, upon placement of a low-income individual trained by the program involved in employment with an employer and retention of the low-income individual in that employment with that employer for a period of 1 year, if that employment provides the low-income individual with an annual salary—

''(I) that is at least $10,000 more than the individual's federally adjusted income for the previous year; and

''(II) that is not less than twice the poverty line applicable to the individual; and

''(ii) be made taking into account 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;

''(I) targeted innovation projects that improve access to and delivery of employment and training services, with emphasis given to projects that incorporate advanced technologies to facilitate the connection of individuals to the information and tools the individuals need to upgrade skills;

''(J) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet; and

''(K) projects that provide comprehensive education and 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 (2)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) MULTISERVICE PROJECTS.—Section 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended to read as follows:

''(B) STUDIES AND REPORTS.—

''(i) NET IMPACT STUDIES AND REPORTS.—

''(I) IN GENERAL.—The Secretary, in coordination with the Secretary of Education, shall conduct studies to determine the net impacts of, including best practices of, programs, services, and activities carried out under this title.

''(II) REPORTS.—The Secretary shall prepare and disseminate to the public reports containing the results of the studies conducted under subclause (I).

''(ii) STUDY ON RESOURCES AVAILABLE TO ASSIST OUT-OF-SCHOOL YOUTH.—The Secretary, in coordination with the Secretary of Education, may conduct a study examining the resources available at the Federal, State, and local levels to assist out-of-school youth in obtaining the skills, credentials, and work experience necessary to become successfully employed, including the availability of funds provided through average daily attendance and other methodologies used by States and local areas to distribute funds.

''(iii) STUDY OF INDUSTRY-BASED CERTIFICATION AND CREDENTIALS.—

''(I) IN GENERAL.—The Secretary shall conduct a study concerning the role and benefits of credentialing and certification to businesses and workers in the economy and the implications of certification to the services provided through the workforce investment system. The study may examine issues such as—

''(aa) the characteristics of successful credentialing and certification systems that serve business and individual needs;

''(bb) the relative proportions of certificates and credentials attained with assistance from the public sector, with private-sector training of new hires or incumbent workers, and by individuals on their own initiative without other assistance, respectively;

''(cc) the return on human capital investments from occupational credentials and industry-based skill certifications, including the extent to which acquisition of such credentials or certificates enhances outcomes such as entry into employment, retention, earnings (including the number and amount of wage increases), career advancement, and layoff aversion;

''(dd) the implications of the effects of skill certifications and credentials to the types and delivery of services provided through the workforce investment system;

''(ee) the role that Federal and State governments play in fostering the development of and disseminating credentials and skill standards; and

''(ff) 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 certification 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.

''(iv) STUDY OF EFFECTIVENESS OF WORKFORCE INVESTMENT SYSTEM IN MEETING BUSINESS NEEDS.—

''(I) IN GENERAL.—Using funds available to carry out this section jointly with funds available to the Secretary of Commerce and Administrator of the Small Business Administration, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may conduct a study of the effectiveness of the workforce investment system in meeting the needs of business, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies. In conducting the study, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may examine issues such as—

''(aa) methods for identifying the workforce needs of businesses and how the requirements of small businesses may differ from larger establishments;

''(bb) business satisfaction with the workforce investment system, with particular emphasis on the satisfaction of small businesses;

''(cc) the extent to which business is engaged as a collaborative partner in the workforce investment system, including the extent of business involvement as members of State boards and local boards, and the extent to which such boards and one-stop centers effectively collaborate with business and industry leaders in developing workforce investment strategies, including strategies to identify high growth opportunities;

''(dd) ways in which the workforce investment system addresses changing skill needs of business that result from changes in technology and work processes;

''(ee) promising practices for serving small businesses;

''(ff) the extent and manner in which the workforce investment system uses technology to serve business and individual needs, and how uses of technology could enhance efficiency and effectiveness in providing services; and

''(gg) the extent to which various segments of the labor force have access to and utilize technology to locate job openings and apply for jobs, and characteristics of individuals utilizing such technology (such as age, gender, race or ethnicity, industry sector, and occupational groups).

''(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study described in subclause (I). Such report may include any recommendations the Secretary determines are appropriate to include in such report, including ways to enhance the effectiveness of the workforce investment system in meeting the needs of business for skilled workers.''.

(c) ADMINISTRATION.—Section 171(d) (29 U.S.C. 2916(d)) is amended by striking the last sentence and inserting the following: ''Such projects shall be administered by the Employment and Training Administration.''.

(d) NEXT GENERATION TECHNOLOGIES.—Section 171 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) SKILL CERTIFICATION PILOT PROJECTS.—

''(1) PILOT PROJECTS.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (10), the Secretary shall establish and carry out not more than 10 pilot projects to establish a system of industry-validated national certifications of skills, including—

''(A) not more than 8 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), nanotechnology, and energy technology; and

''(B) not more than 2 cross-disciplinary national certifications of skills in homeland security technology.

''(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1). In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(3) ELIGIBLE ENTITIES.—

''(A) DEFINITION OF ELIGIBLE ENTITY.—In 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:

''(i) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(ii) 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 industry 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 or nonprofit sources. Such matching funds may be provided in cash or in kind.

''(7) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—An eligible entity that receives a grant 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 at the program's completion, 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 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.

''(8) 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.

''(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

''(A) establish the core components of a model high-technology certification program;

''(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

''(C) prepare and submit a report on the pilot projects 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; and

''(D) make available to the public both the data and the report.

''(10) 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.''.

(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—Section 171 (29 U.S.C. 2916), as amended by subsection (d), is further amended by adding at the end the following:

''(f) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

''(B) SECRETARY.—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 not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

''(4) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

''(i) An employer or employer association.

''(ii) A nonprofit provider of English language instruction.

''(iii) A provider of occupational or skills training.

''(iv) A community-based organization.

''(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(vi) A labor organization.

''(vii) A local board.

''(B) EXPERTISE.—To 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.

''(5) 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 has the expertise described in paragraph (4)(B); and

''(ii) include an assurance that the program to be assisted shall—

''(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

''(II) establish a framework by which the employer, employee, and other relevant members of 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;

''(III) ensure that the framework established under subclause (II) 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 efficacy of the program can be evaluated and best practices identified.

''(6) CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

''(7) INTEGRATED WORKFORCE TRAINING PROGRAMS.—

''(A) 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.

''(ii) 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 adults for, and place such adults 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) A program that—

''(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph 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 provided at the worksite, or at a location central to several work sites, during work hours.

''(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, 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 obtain 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. Such approaches may include—

''(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

''(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

''(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

''(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

''(9) EVALUATION BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

''(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

''(C) REPORT.—The Secretary shall prepare and submit 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, and make available to the public, a report on the demonstration project, including the results of the evaluation.

''(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

''(11) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $10,000,000 for fiscal year 2006 to carry out this subsection.''.

(f) COMMUNITY-BASED JOB TRAINING.—Section 171 (29 U.S.C. 2916), as amended by subsection (e), is further amended by adding at the end the following:

''(g) COMMUNITY-BASED JOB TRAINING.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMUNITY COLLEGE.—The term 'community college' means—

''(i) an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that provides a 2-year degree that is acceptable for full credit toward a bachelor's degree; or

''(ii) a tribally controlled college or university, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college or a consortium composed of a community college and an institution of higher education, that shall work with—

''(i) a local board;

''(ii) a business in the qualified industry or an industry association in the qualified industry, as identified in the application of the entity; and

''(iii) an economic development entity.

''(C) INSTITUTION OF HIGHER EDUCATION.—Except as otherwise provided in subparagraph (A)(i), the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) and the meaning given the term postsecondary vocational institution in section 102(a)(1)(B) of such Act (20 U.S.C. 1002(a)(1)(B)).

''(D) QUALIFIED INDUSTRY.—The term 'qualified industry' means an industry or economic sector that is projected to experience significant growth, such as an industry or economic sector that—

''(i) is projected to add substantial numbers of new jobs to the regional economy;

''(ii) has or is projected to have significant impact on the regional economy;

''(iii) impacts or is projected to impact the growth of other industries or economic sectors in the regional economy;

''(iv) is being transformed by technology and innovation requiring new knowledge or skill sets for workers;

''(v) is a new or emerging industry or economic sector that is projected to grow; or

''(vi) requires high skills and has significant labor shortages in the regional economy.

''(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 the workforce challenges facing high-growth, high-skill industries with labor shortages; and

''(B) to increase employment opportunities for workers in high-growth, high-demand occupations by establishing partnerships among education entities, the workforce investment system, and businesses in high-growth, high-skill 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 enable the eligible entities to carry out activities authorized under this subsection.

''(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, including—

''(A) a description of the eligible entity that will offer training under the grant;

''(B) a justification of the need for discretionary funding under the grant, including the need for external funds to create a program to carry out the activities described in paragraph (6);

''(C) an economic analysis of the local labor market to identify—

''(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 provided through the one-stop center 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.

''(5) 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 center's capacity to be demand-driven and responsive to local economic needs;

''(iv) the extent to which local businesses commit to hire, retain, or advance individuals who receive training through the grant; and

''(v) the extent to which the eligible entity commits to make any newly developed products, such as skill standards, assessments, or industry-recognized training curricula, available for dissemination nationally.

''(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall also 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.

''(6) USE OF FUNDS.—An eligible entity that receives a grant under this subsection—

''(A) shall use the grant funds for—

''(i) the development by the community college that is a part of the eligible entity in collaboration with other partners 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 available for high-growth, high-demand 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.

''(7) AUTHORITY TO REQUIRE NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or noncash resources, of the costs of activities carried out under a grant awarded under this subsection.

''(8) 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 performance measures identified in the eligible entity's grant application.

''(B) EVALUATION.—The Secretary shall 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 172(c).''.

SEC. 147. NATIONAL DISLOCATED WORKER GRANTS.

(a) IN GENERAL.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking the heading and inserting the following:

''SEC. 173. NATIONAL DISLOCATED 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 (3), 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;

''(5) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;

''(6) to provide additional assistance to a State board or local board where a higher than average demand for employment and training activities for dislocated members of the Armed Forces, or spouses, as described in section 101(11)(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

''(7) 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 ADDITIONAL ASSISTANCE.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(3) in paragraph (2) of subsection (b) (as redesignated by paragraph (2))—

(A) in subparagraph (A), in the matter preceding clause (i), by striking ''national emergency grant'' and inserting ''national dislocated worker grant''; and

(B) in subparagraph (C), by striking ''national emergency grants'' and inserting ''national dislocated worker grants'';

(4) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

''(d) ADDITIONAL ASSISTANCE.—

''(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than $20,000,000 to make grants to States to provide employment and training activities under section 134, in accordance with subtitle B.

''(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003, is greater than

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).

''(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003; and

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).'';

(5) in subsection (e) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)'';

(B) in paragraph (2), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(C) in paragraph (3)(B), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)'';

(D) in paragraph (4), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(E) in paragraph (5), by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(F) in paragraph (6)—

(i) by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(ii) by striking ''subsection (c)(1)(B)'' and inserting ''subsection (b)(1)(B)''; and

(6) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking ''paragraph (4)(B)'' and inserting ''paragraph (5)''; and

(ii) by striking ''subsection (f)(1)(A)'' and inserting ''subsection (e)(1)(A)''; and

(B) in paragraph (4)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 174(a)(1) (29 U.S.C. 2919(a)(1)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) RESERVATIONS.—Section 174(b) (29 U.S.C. 2919(b)) is amended to read as follows:

''(b) TECHNICAL ASSISTANCE; DEMONSTRATION 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.—Section 174(c) (29 U.S.C. 2919(c)) is amended—

(1) in paragraphs (1)(A) and (2)(A), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)''; and

(2) in paragraphs (1)(B) and (2)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

Subtitle E—Administration

SEC. 151. REQUIREMENTS AND RESTRICTIONS.

Section 181(e) (29 U.S.C. 2931(e)) is amended by striking ''economic development activities,''.

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''; 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(d)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); 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,'' after ''local boards,'';

(2) in subparagraph (C), by striking ''90'' and inserting ''60''; and

(3) by adding at the end the following:

''(D) EXPEDITED REQUESTS.—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 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 measures relating to the indicators described in section 136(b)(2)(A)(i).''.

SEC. 154. USE OF CERTAIN REAL PROPERTY.

Section 193 (29 U.S.C. 2943) is amended to read as follows:

''SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY AGENCY REAL PROPERTY TO THE STATES.

''(a) TRANSFER OF FEDERAL EQUITY.—Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act.

''(b) LIMITATION ON USE.—A State shall not use funds awarded under title III of the Social Security Act or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the effective date of this provision.''.

SEC. 155. GENERAL PROGRAM REQUIREMENTS.

Section 195 (29 U.S.C. 2945) is amended by adding at the end the following:

''(14) 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 private sector employment agencies (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 (20 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 interests 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.); or

''(B) have—

''(i) met 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.); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment activities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under title I as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under title I;

''(cc) implementation of statewide coordination activities through agreements with relevant State agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) statewide coordination through local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and 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—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) 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.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support statewide economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of a statewide integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs; or

''(G) activities that support local workforce investment boards or areas in improving performance and program coordination.

''(4) 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 or to develop integrated performance information systems and strengthen coordination with education and economic development.''; and

(2) by striking 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. 3056j(a)) is amended by striking ''(B)(vi)'' and inserting ''(B)(v)''.

(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(i)(1)'' 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''; 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, individual freedom, 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 ''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 (C)(i) and inserting the following:

''(i) are basic skills deficient as defined in section 101;'';

(2) in paragraph (2), by striking ''activities described in section 231(b)'' 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'';

(3) in paragraph (5)—

(A) by inserting ''an organization that has demonstrated effectiveness in providing adult education, that may include'' after ''means'';

(B) in subparagraph (B), by striking ''of demonstrated effectiveness'';

(C) in subparagraph (C), by striking ''of demonstrated effectiveness''; and

(D) in subparagraph (I), by inserting ''or coalition'' after ''consortium'';

(4) in paragraph (6)—

(A) by striking ''LITERACY PROGRAM'' and inserting ''LANGUAGE ACQUISITION PROGRAM'';

(B) by striking ''literacy program'' and inserting ''language acquisition program''; and

(C) by inserting ''reading, writing, and speaking'' after ''competence in'';

(5) by striking paragraph (10);

(6) by redesignating paragraphs (7) through (9) and (12) through (18) as paragraphs (8) through (10) and (13) through (19), respectively;

(7) by inserting after paragraph (6) the following:

''(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).'';

(8) by inserting after paragraph (11) the following:

''(12) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency', when used with respect to an individual, means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

''(A) whose native language is a language other than English; or

''(B) who lives in a family or community environment where a language other than English is the dominant language.'';

(9) by striking paragraph (15), as redesignated by paragraph (6), and inserting the following:

''(15) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(10) by striking paragraph (19), as redesignated by paragraph (6), and inserting the following:

''(19) WORKPLACE LITERACY PROGRAM.—The term 'workplace literacy program' means an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location, or in a simulated workplace environment.''.

SEC. 203. HOME SCHOOLS.

Section 204 of the Adult Education and Family Literacy Act (20 U.S.C. 9203) is amended to read as follows:

''SEC. 204. HOME SCHOOLS.

''Nothing in this title shall be construed to affect home schools, whether a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English language acquisition program, family literacy services, or adult education.''.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Adult Education and Family Literacy Act (20 U.S.C. 9204) is amended—

(1) by striking ''1999'' and inserting ''2006''; and

(2) by striking ''2003'' and inserting ''2011''.

SEC. 205. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

Section 211 of the Adult Education and Family Literacy Act (20 U.S.C. 9211) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

''(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 243 and subsection (f)(4), except that the amount so reserved shall not exceed $8,000,000;

''(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 244.'';

(2) in subsection (c)(2)—

(A) by inserting ''and the sole agency responsible for administering or 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''; and

(ii) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, or'' and inserting ''or''; and

(B) in paragraph (3)—

(i) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(ii) by striking ''2001'' and inserting ''2007''; and

(4) by striking subsection (f) and inserting the following:

''(f) HOLD-HARMLESS PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (c) and subject to paragraph (2), 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 (1) and (2) of subsection (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).

''(3) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraphs (1) and (2), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

''(4) ADDITIONAL ASSISTANCE.—

''(A) IN GENERAL.—From amounts reserved under subsection (a)(2), the Secretary shall make grants to eligible agencies 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

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 agency 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. 9212) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking ''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, English language acquisition, and other literacy skills.

''(ii) Placement in, retention in, or completion of, postsecondary education or other training programs.

''(iii) Completion of a secondary school diploma, its recognized equivalent, or a recognized alternative 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 negotiated for workplace literacy programs.''; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i)(II), by striking ''in performance'' and inserting ''the agency's performance outcomes in an objective, quantifiable, and measurable form'';

(II) in clause (ii), by striking ''3 programs years'' and inserting ''2 program years'';

(III) in clause (iii), by striking ''FIRST 3 YEARS'' and inserting ''FIRST 2 YEARS'';

(IV) in clause (iii), by striking ''first 3 program years'' and inserting ''first 2 program years'';

(V) in clause (v), by striking ''4TH AND 5TH'' and inserting ''3RD AND 4TH'';

(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''; and

(VIII) in clause (vi), by striking ''(II)'' and inserting ''(I)'';

(ii) in subparagraph (B)—

(I) by striking the heading and inserting ''LEVELS OF EMPLOYMENT PERFORMANCE'';

(II) by striking ''may'' and inserting ''shall''; and

(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 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'' after ''Secretary''; 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 each of the following:

''(i) Core indicators of performance.

''(ii) Employment performance indicators.

''(iii) Other long-term objectives.

''(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 enrolled in adult education not later than 1 year after participating in secondary school education.'';

(B) in paragraph (2)(A), by inserting ''eligible providers and'' after ''available to''; 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.''; and

(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(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9221(1)) 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 ''82.5'' the first place such term appears and inserting ''80''; and

(ii) by striking ''the 82.5 percent'' and inserting ''such amount'';

(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

(2) in subsection (b)(1), 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 outlying area'' after ''activities'';

(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 by personnel of a State or outlying 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'';

(E) by striking paragraph (6) 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.''; and

(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 support 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 243(b)(3)(F).

''(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 and language arts, mathematics, and English language acquisition; and

''(B) take into consideration the following:

''(i) State academic standards established under section 1111(b) 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 for enrollment in non-remedial, for-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.

''(15) 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) identify the needs 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.

''(16) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.

''(17) 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;'';

(C) in paragraph (3)—

(i) by inserting ''and measure'' after ''evaluate'';

(ii) by inserting ''and improvement'' after ''effectiveness''; and

(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 eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this subtitle and regarding the core indicators of performance described in section 212(b)(2)(A); and

''(ii) will use technical assistance, sanctions, and 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:

''(5) a description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;'';

(G) 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, mental health 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 activities, 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 ''assess potential population needs and'' after ''will'';

(ii) in subparagraph (A), 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 ''and how the plan submitted under this subtitle is coordinated with the plan submitted by the State under title I'' after ''eligible agency''; and

(ii) by striking ''and'' 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;''; and

(L) by adding at the end the following:

''(14) a description of how the eligible agency will consult with any 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.''; and

(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''; and

(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 (3); 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''; and

(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)'' after ''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) in paragraph (4)(B), by striking '', such as'' and all that follows through the semicolon and inserting ''that include the essential components of reading instruction;'';

(D) in paragraph (5), 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,'' after ''real life contexts'';

(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

(ii) by striking ''and transportation'' and inserting '', transportation, mental health services, and case management'';

(H) in paragraph (11)—

(i) by inserting ''measurable'' after ''report'';

(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 programs.'' and inserting ''language acquisition programs 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 participant 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; and

''(16) the capacity of the eligible provider to serve adult learners with learning disabilities.''.

SEC. 213. LOCAL APPLICATION.

Section 232 of the Adult Education and Family Literacy Act (20 U.S.C. 9242) is amended—

(1) in paragraph (1)—

(A) by inserting ''consistent with the requirements of this subtitle'' after ''spent''; and

(B) by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) information that addresses each of the considerations required under section 231(e).''.

SEC. 214. LOCAL ADMINISTRATIVE COST LIMITS.

Section 233 of the Adult Education and Family Literacy Act (20 U.S.C. 9243) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''and professional'' after ''personnel''; 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''; and

(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 241(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9251(b)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''adult education and literacy activities'' each place the term appears and inserting ''activities under this subtitle''; and

(B) by striking ''was'' and inserting ''were''; and

(2) in paragraph (4)—

(A) by inserting ''not more than'' after ''this subsection for''; and

(B) by striking ''only''.

SEC. 216. NATIONAL INSTITUTE FOR LITERACY.

Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''literacy'' and inserting ''effective literacy programs for children, youth, adults, and families'';

(B) in paragraph (2), by inserting ''and disseminates information on'' after ''coordinates''; and

(C) 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 derived from 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 (iii), by striking ''and'' after the semicolon;

(IV) in clause (iv), by inserting ''and'' after the semicolon; and

(V) by adding at the end the following:

''(v) a list of local adult education and literacy programs;'';

(ii) in subparagraph (C)—

(I) by striking ''reliable and replicable research'' and inserting ''reliable and replicable research 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) in subparagraph (D), by striking ''phonemic awareness, systematic phonics, fluency, and reading comprehension based on'' and inserting ''the essential components of reading instruction and'';

(iv) in subparagraph (H), by striking ''and'' after the semicolon;

(v) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

''(J) to work cooperatively with the Department of Education to assist States that are pursuing the implementation of standards-based educational improvements for adults through the dissemination of training, technical assistance, and related support and through the development and dissemination of related standards-based assessment instruments; and

''(K) to identify scientifically based research where available, or the most rigorous research available, on the effectiveness of instructional practices and organizational strategies relating to literacy programs on the acquisition of skills in reading, writing, English acquisition, and mathematics.''; and

(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 ''language acquisition programs'';

(ii) in clause (ii), by striking ''literacy programs'' and inserting ''or have participated in or partnered with workplace literacy programs'';

(iii) in clause (iv), by inserting '', including adult literacy research'' after ''research'';

(iv) in clause (vi), by striking ''and'' after the semicolon;

(v) in clause (vii), by striking the period at the end and inserting ''; and''; and

(vi) by adding at the end the following:

''(viii) institutions of higher education.'';

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

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

(iii) by adding at the end the following:

''(D) review the biennial report submitted to Congress pursuant to subsection (k).''; and

(C) in paragraph (5), by striking the second sentence and inserting the following: ''A recommendation of the Board may be passed only by a majority of the Board's members present at a meeting for which there is a quorum.''; and

(5) in subsection (k)—

(A) by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

(B) 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 Act 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. 9253) is amended to read as follows:

''SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

''(b) PERMISSIVE ACTIVITIES.—The national leadership activities described in subsection (a) may include the following:

''(1) Technical assistance, including—

''(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

''(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating 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 distance learning and promoting and improving the use of technology in the classroom;

''(D) assistance in developing valid, measurable, and reliable performance data, including data about employment and employment outcome, and using performance information for the improvement of adult education and literacy programs; and

''(E) assistance to help States, particularly low-performing States, meet the requirements of section 212.

''(2) A program of 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 through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

''(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;

''(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 certificates;

''(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 services; and

''(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 adult education and literacy 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 services to adults enrolled in adult education and family literacy programs increase 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 would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 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 amounts 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 $60,000.''.

SEC. 219. TRANSITION.

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of 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).

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 301. WAGNER-PEYSER ACT.

(a) CONFORMING AMENDMENT.—Section 2(3) of the Wagner-Peyser Act (29 U.S.C. 49a(3)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(b) COLOCATION.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended by adding at the end the following:

''(d) In order to avoid duplication of services and enhance integration of services, employment services offices in each State shall be colocated with one-stop centers established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

''(e) The Secretary, in consultation with States, is authorized to assist in the development of national electronic tools that may be used to improve access to workforce information for individuals through—

''(1) the one-stop delivery systems established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(2) such other delivery systems as the Secretary determines to be appropriate.''.

(c) COOPERATIVE STATISTICAL PROGRAM.—Section 14 of the Wagner-Peyser Act (29 U.S.C. 491–1) is amended by striking the section heading and all that follows through ''There'' and inserting the following:

''SEC. 14. COOPERATIVE STATISTICAL PROGRAM.

''There''.

(d) WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.—Section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.'';

(2) by striking ''employment statistics system'' each place it appears and inserting ''workforce and labor market information system'';

(3) in subsection (a)(1), by striking ''of employment statistics'';

(4) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''The'' and inserting the following:

''(A) STRUCTURE.—The''; and

(ii) by adding at the end the following:

''(B) GRANTS OR COOPERATIVE AGREEMENTS.—

''(i) IN GENERAL.—The Secretary shall carry out the provisions of this section in a timely manner through grants or cooperative agreements with States.

''(ii) DISTRIBUTION OF FUNDS.—With regard to distributing funds appropriated under subsection (g) (relating to workforce and labor market information funding) for fiscal years 2006 through 2011, the Secretary shall continue to distribute the funds to States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 1999 through 2003.''; and

(B) in paragraph (2)(E)—

(i) in clause (i), by adding ''and'' at the end;

(ii) in clause (ii), by striking ''; and'' and inserting a period; and

(iii) by striking clause (iii);

(5) by striking subsections (c) and (d) and inserting the following:

''(c) TWO-YEAR PLAN.—The Secretary, working through the Commissioner of Labor Statistics, and in cooperation with the States and with the assistance of the Assistant Secretary for Employment and Training and heads of other appropriate Federal agencies, shall prepare a 2-year plan which shall be the mechanism for achieving cooperative

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 to be taken in the following 2 years to carry out the duties described in subsection (b)(2);

''(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, working though the Commissioner of Labor Statistics and in coordination with the Assistant Secretary for Employment and Training, shall consult at least annually with representatives of each of the Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).'';

(6) in subsection (e)(2)—

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

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H); and

(7) in subsection (g), by striking ''1999 through 2004'' and inserting ''2006 through 2011''.

TITLE IV—REHABILITATION ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Rehabilitation Act Amendments of 2005''.

SEC. 402. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS.

(a) EXPANDED TRANSITION SERVICES.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:

''Sec. 110A. Reservation for expanded transition services.''.

(b) INCENTIVE GRANTS.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Incentive grants.''.

(c) INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.—Section 1(b) of the Rehabilitation Act of 1973 is amended by striking the items relating to sections 752 and 753 and inserting the following:

''Sec. 752. Training and technical assistance.

''Sec. 753. Program of grants.

''Sec. 754. Authorization of appropriations.''.

SEC. 403. PURPOSE.

Section 2 of the Rehabilitation Act of 1973 (29 U.S.C. 701) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7)(A) a high proportion of youth who are individuals with disabilities is leaving special education without being employed or being enrolled in continuing education; and

''(B) there is a substantial need to support those youth as the youth transition from school to postsecondary life.''; and

(2) in subsection (b)—

(A) in paragraph (1)(F), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) to 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. 705) is amended—

(1) in paragraph (2)(B)—

(A) in the matter preceding clause (i), by inserting ''and literacy services'' after ''supported employment''; and

(B) in clause (iii), by inserting ''and literacy skills'' after ''educational achievements'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) ASSISTIVE TECHNOLOGY DEFINITIONS.—

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

''(B) ASSISTIVE 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 the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

''(C) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section—

''(i) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

''(ii) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.'';

(3) by striking paragraph (7) and inserting the following:

''(7) CONSUMER ORGANIZATION.—The term 'consumer organization' means a membership organization in which a majority of the organization's members and a majority of the organization's officers are individuals with disabilities.'';

(4) in paragraph (17)—

(A) in subparagraph (C), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(E) maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.'';

(5) by redesignating paragraphs (24) through (28), (29) through (34), (35) through (37), and (38) through (39), as paragraphs (25) through (29), (31) through (36), (38) through (40), and (42) through (43), respectively;

(6) by inserting after paragraph (23) the following:

''(24) LITERACY.—The term 'literacy' has the meaning given the term in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).'';

(7) by inserting after paragraph (29), as redesignated by paragraph (5), the following:

''(30) POST-EMPLOYMENT SERVICE.—The term 'post-employment' service means a service identified in section 103(a) that is—

''(A) provided subsequent to the achievement of an employment outcome; and

''(B) necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.'';

(8) by inserting after paragraph (36), as redesignated by paragraph (5), the following:

''(37) STUDENT WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'student with a disability' means an individual with a disability who attends an elementary school 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)(I) 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.); or

''(II) is an individual with a disability, for purposes of section 504.

''(B) STUDENTS WITH DISABILITIES.—The term 'students with disabilities' means more than 1 student with a disability.'';

(9) in paragraph (38)(A)(ii), as redesignated by paragraph (5), by striking ''paragraph (36)(C)'' and inserting ''paragraph (39)(C)''; and

(10) 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 first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) 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. 709(a)(1)) is amended—

(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) will be posted in a timely manner on the website of the Department of Education, in order to inform the public about the administration and performance of programs in each State under this Act.

''(B) The reports, information, and data referred to in subparagraph (A) shall consist of—

''(i) reports submitted by a designated State unit under this Act;

''(ii) 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;

''(iii) data collected from 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 required to be submitted by designated State units under this Act.

''(D) The Commissioner shall post on the website, or establish links on the website to, evaluations, studies, and audits, including evaluations, studies, and audits conducted by agencies of the Federal government, concerning programs carried out under this Act.

''(E) The Commissioner shall maintain on the website a list of the designated State units and shall establish links on the website to websites maintained by those units.

''(2) The Commissioner shall maintain public use read-only access to the State and aggregated reports and analyzed data filed and maintained on the Rehabilitation Services Administration management information system or a similar 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)(1)—

(A) by striking '', section 509 (except as provided in section 509(b))'';

(B) by striking ''or C''; and

(C) by striking ''752(b)'' and inserting ''753(b)''; and

(2) by adding at the end the following:

''(c) CLIENT ASSISTANCE PROGRAM; PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—

''(1) APPROPRIATED AMOUNTS.—Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 112 or 509 (except as provided in section 509(b)), including any funds reallotted under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

''(2) PROGRAM INCOME.—Notwithstanding any other provision of law, any amounts of program income received by recipients under a grant program under section 112 or 509 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available until expended.''.

Subtitle A—Vocational Rehabilitation Services

SEC. 411. DECLARATION OF POLICY; AUTHORIZATION OF 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 2006 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 REIMBURSEMENT PURPOSES.—A governing body of an Indian tribe that receives a grant under section 121 shall be considered, for purposes of the cost reimbursement provisions—

''(i) in section 222(d)(1) of the Social Security Act (42 U.S.C. 422(d)(1)), to be a State; and

''(ii) in subsections (d) and (e) of section 1615 of the Social Security Act (42 U.S.C. 1382d), to be a State agency described in subsection (d) of that section.'';

(2) in paragraph (6)(B), by striking ''to employ and advance in employment'' and inserting ''to recruit, employ, and advance in employment'';

(3) in paragraph (7)(A)(v), by striking subclause (I) and inserting the following:

''(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003); and'';

(4) in paragraph (10)—

(A) in subparagraph (B), by striking ''annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998'' and inserting ''annual reporting of information on eligible individuals receiving the services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i))'';

(B) in subparagraph (C), by striking clauses (iii) and (iv) and inserting the following:

''(iii) the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and

''(iv) the number of individuals who received vocational rehabilitation services who entered and retained employment and the earnings of such individuals, as such entry, retention, and earnings are defined for purposes of the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i)).''; and

(C) in subparagraph (E)(ii), by striking ''in meeting'' and all that follows through the period and inserting ''in meeting the standards and indicators established pursuant to section 106.'';

(5) in paragraph (11)—

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

''(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.'';

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

''(ii) transition planning by personnel of the designated State agency and the State educational agency that will facilitate the development and completion of the individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) and, as appropriate, the development and completion of the individualized plan for employment, in order to achieve post-school employment outcomes of students with disabilities;''; and

(C) by adding at the end the following:

''(G) COORDINATION WITH ASSISTIVE TECHNOLOGY PROGRAMS.—The State plan shall include an assurance that 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), have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

''(H) COORDINATION WITH TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.—The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19).'';

(6) in paragraph (15)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) in subclause (II), by striking ''and'' after the semicolon;

(II) in subclause (III), by inserting ''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, students with disabilities, including their need for transition services;'';

(ii) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(iii) by inserting after clause (i) the following:

''(ii) include an assessment of the needs of individuals with disabilities for transition services provided under this Act, and coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and an assessment as to whether the transition services provided under those Acts meet the needs of individuals with disabilities;''; and

(B) in subparagraph (D)—

(i) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(ii) by inserting after clause (ii) the following:

''(iii) for use 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 the receipt of educational services in school to postsecondary life, including the receipt of vocational rehabilitation services under this title, postsecondary education, or employment;'';

(7) in paragraph (20)—

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

(B) by inserting after subparagraph (A) the following:

''(B) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—The State plan shall include an assurance that the designated State agency will make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(i) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 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 regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph

(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 subparagraph (A)—

(i) in subclause (II), by inserting '', to the maximum extent possible,'' after ''point of contact''; and

(ii) in subclause (III), by striking ''or regain'' and inserting ''regain, or advance in''; and

(8) by adding at the end the following:

''(25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

''(A) has developed and shall implement, in each transition services expansion year, strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, 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) shall not use more than 5 percent of the funds reserved under section 110A and available for this subparagraph, to pay for administrative costs; 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, through partnerships described in subparagraph (C), that—

''(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;

''(IV) support the provision of training 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, services under 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 rehabilitation 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:

''(c) CONSTRUCTION.—

''(1) DEFINITIONS.—In this subsection, the terms 'child with a disability', 'free appropriate public education', 'related services', and 'special education' have the meanings given the terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

''(2) OBLIGATION TO PROVIDE OR PAY FOR TRANSITION SERVICES.—Nothing in this part shall be construed to reduce the obligation of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.''.

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 the period at the end and inserting a semicolon; and

(III) by adding at the end the following:

''(iii) for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(I) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 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 regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph (B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).'';

(B) in paragraph (2)(E)—

(i) in clause (i)(II), by striking ''and'' after the semicolon;

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

(iii) by adding at the end the following:

''(iii) amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.''; and

(C) in paragraph (3)—

(i) in subparagraph (B)(i)(I), by striking ''and personal assistance services'' and all that follows and inserting ''mentoring services, and personal assistance services, including training in the management of such services, and referrals described in section 103(a)(3) to the device reutilization programs and device demonstrations described in subparagraphs (B) and (D) of section 4(e)(2) of the Assistive Technology Act of 1998 (42 U.S.C. 3003(e)(2)) through agreements developed under section 101(a)(11)(G); and'';

(ii) in subparagraph (F)(ii), by striking ''and'' after the semicolon;

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

(iv) by adding at the end the following:

''(H) for an individual who is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), a list of the services that are listed in the individual work plan that the individual developed with the employment network under subsection (g) of that section.''; and

(2) in subsection (c)(7), by inserting ''that take into consideration the informed choice of the individual,'' after ''plan development''.

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:

''(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life (including employment through the achievement of the employment outcome identified in the individualized plan for employment), including, in a 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 ''; and''; and

(E) by adding at the end the following:

''(19) mentoring services.''; and

(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 (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(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 (1)(A)—

(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 the projects;'';

(ii) in clause (x), by striking the ''and'' after the semicolon;

(iii) 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 statewide program of technology-related assistance funded under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003).''; and

(B) by striking paragraph (5) and inserting the following:

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.''; and

(2) in subsection (c)(6), by inserting before the semicolon the following: ''and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.)''.

SEC. 416. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

Section 106 of the Rehabilitation Act of 1973 (29 U.S.C. 726) is amended—

(1) in subsection (a), by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that include measures of the program's performance with respect to the transition from school to postsecondary life, including employment, and achievement of the postsecondary vocational goals, of students with disabilities served under the program.''; and

(2) in subsection (b)(2)(B)(i), by striking '', if necessary'' and all that follows through the semicolon and inserting '', if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance, which may include revising the plan to allocate a higher proportion of the State's resources for services to individuals with disabilities if the State agency's spending on such services is low in comparison to spending on such services by comparable agencies in other States;''.

SEC. 417. MONITORING AND REVIEW.

Section 107(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 727(b)(1)) is amended by inserting before the semicolon the following: '', including—

''(A) consulting with the Department of Labor, the Small Business Administration, other appropriate Federal agencies, and businesses or business-led intermediaries; and

''(B) based on information obtained through the consultations, providing technical assistance that improves that quality by enabling designated 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 ALLOTMENTS.

Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) is amended—

(1) by striking subsection (b) and inserting the following:

''(b)(1) 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 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

''(2)(A) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall reallot the amount available under paragraph (1) to other States, consistent with subparagraphs (B) and (C), for carrying out the purposes of this title to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes.

''(B)(i) The Commissioner shall reallot a portion of the amount available under paragraph (1) for a fiscal year to each State whose allotment under subsection (a) for such fiscal year is less than such State's allotment under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

''(ii)(I) A State that is eligible to receive a reallotment under clause (i) shall receive a portion for a fiscal year from the amount available for reallotment 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 subsection (a) from the immediately preceding fiscal year.

''(II) If the amount available for reallotment under paragraph (1) is insufficient to provide each State eligible to receive a reallotment with the portion described in subclause (I), the amount reallotted to each eligible State shall be determined by the Commissioner.

''(C) If there are funds remaining after each State eligible to receive a reallotment under subparagraph (B)(i) receives the portion described in subparagraph (B)(ii), the Commissioner shall reallot the remaining funds among the States requesting a reallotment.

''(3) The Commissioner shall reallot an amount to a State under this subsection only if the State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

''(4) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.''; and

(2) by striking subsection (c)(2) and inserting the following:

''(2)(A) In this paragraph:

''(i) The term 'appropriated amount' means the amount appropriated under section 100(b)(1) for allotment under this section.

''(ii) The term 'covered year' means a fiscal year—

''(I) that begins after September 30, 2004; and

''(II) for which the appropriated amount exceeds the total of—

''(aa) the appropriated amount for the preceding fiscal year; and

''(bb) 0.075 percent of the appropriated amount for the preceding fiscal year.

''(B) For each covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the total of the sum reserved under this subsection for the preceding fiscal year and 0.1 percent of the appropriated amount for the covered year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.

''(C) For each fiscal year that is not a covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the sum reserved under this subsection for the preceding fiscal year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.''.

SEC. 419. RESERVATION FOR EXPANDED TRANSITION SERVICES.

The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:

''SEC. 110A. RESERVATION FOR EXPANDED TRANSITION 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 under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).

''(b) CALCULATION.—The Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—

''(1) the amount allotted to that State under section 110 for the prior fiscal year; by

''(2) the total amount allotted to all States under section 110 for that prior fiscal year.''.

SEC. 420. CLIENT ASSISTANCE PROGRAM.

Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''States'' and inserting ''agencies designated under subsection (c)''; and

(B) in the second sentence, by striking ''State'' and inserting ''State in which the program is located'';

(2) in subsection (b), by striking ''the State has in effect not later than October 1, 1984, a client assistance program which'' and inserting ''the State designated under subsection (c) an agency that'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''The Secretary'' and all that follows through the period and inserting the following: ''After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the agencies designated under subsection (c) within the States (referred to individually in this subsection as a 'designated agency') on the basis of relative population of each State, except that no such agency shall receive less than $50,000.'';

(ii) in subparagraph (B), by inserting ''the designated agencies located in'' after ''each to'';

(iii) in subparagraph (D)(i)—

(I) by inserting ''the designated agencies located in'' after ''$100,000 for''; and

(II) by inserting ''the designated agencies located in'' after ''$45,000 for''; and

(iv) by adding at the end the following:

''(E)(i) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $13,000,000, 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:

''(I) The term 'American Indian Consortium' has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

''(II) The term 'protection and advocacy system' means a protection and advocacy

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.).

''(F) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $14,000,000, the Secretary shall reserve not less than 1.8 percent and not more than 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 509(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''; and

(6) in subsection (h), by striking ''fiscal 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 Commissioner 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 Commissioner 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 Commissioner 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 (a), in the first sentence, by inserting '', consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for, and engage in, gainful employment'' before the period at the end; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

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

(iii) by adding at the end the following:

''(D) contains assurances that—

''(i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program; and

''(ii) such decisions will not be delegated to another agency or individual.'';

(B) in paragraph (3), by striking the first sentence and inserting the following: ''An application approved under this part that complies with the program requirements set forth in the regulations promulgated to carry out this part shall be effective for 5 years and shall be renewed for additional 5-year periods if the Commissioner determines that the grant recipient demonstrated acceptable past performance and the grant recipient submits a plan, including a proposed budget, to the Commissioner that the Commissioner approves that identifies future performance criteria, goals, and objectives.''; and

(C) by striking paragraph (4) and inserting the following:

''(4) In allocating funds under this part, the Secretary shall give priority to paying the continuation costs of projects in existence on the date of the allocation and may provide for increases in funding for such projects that the Secretary determines to be necessary.''.

SEC. 423. GAO STUDIES.

(a) STUDY ON TITLE I AND TICKET TO WORK.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the interaction of programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) with the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), including the impact of the interaction on beneficiaries, community rehabilitation programs (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)), and State vocational rehabilitation agencies.

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with all types of participants in the Ticket to Work and Self-Sufficiency Program, including the Social Security Administration, the Rehabilitation Services Administration, ticketholders, designated State agencies, entities carrying out such community rehabilitation programs (including employment networks and nonemployment networks), protection and advocacy agencies, MAXIMUS, and organizations representing the interests of ticketholders.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General 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 Comptroller 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. 730) 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. 721).

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with appropriate entities.

(3) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

Subtitle B—Research and Training

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 ''through''.

SEC. 432. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''; and

(2) 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: '', including convening a national assistive technology summit, to be held at or in conjunction with a national conference relating to assistive technology with respect to all categories of disabilities''; and

(B) in paragraph (10), by striking ''and telecommuting'' and inserting '', supported employment, and telecommuting'';

(2) in subsection (f)(1)—

(A) by striking ''Federal employees'' and inserting ''Department of Education employees''; and

(B) by adding at the end the following: ''The peer review panel shall include a director of a designated State unit. It shall include a member of the covered school community (for an activity resulting in educational materials or a product to be used in a covered school), a member of the business community (for an activity resulting in a product to be used in an employment activity), assistive technology developers and manufacturers (for an activity relating to assistive technology), or information technology vendors and manufacturers (for an activity relating to information technology).'';

(3) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively;

(4) by inserting after subsection (h) the following:

''(i)(1) The Director, with the assistance of the Rehabilitation Research Advisory Council established under section 205, shall determine if entities that receive financial assistance under this title are complying with the applicable requirements of this Act and achieving measurable goals, described in section 204(d)(2), that are consistent with the requirements of the programs under which the entities received the financial assistance.

''(2) To assist the Director in carrying out the responsibilities described in paragraph (1), the Director shall require recipients of financial assistance under this title to submit relevant information to evaluate program outcomes with respect to the measurable goals described in section 204(d)(2).''; and

(5) by adding at the end the following:

''(m)(1) Not later than December 31 of each year, the Secretary shall prepare, and submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of

the Senate, a report on the activities funded under this title.

''(2) Such report shall include—

''(A) a compilation and summary of the information provided by 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)(2).

''(n)(1) 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.

''(2) If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Director:

''(A) Partial or complete termination of financial assistance for the covered activities, until the entity develops and complies with such a plan.

''(B) Ineligibility to receive financial assistance for such covered activities for the following 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) As part of the 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, and the Administrator of the Small Business Administration''; and

(2) in subsection (b)(2)—

(A) in subparagraph (D), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(F) 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 group served, and the type of product or service provided, categorized by—

''(I) size (small, medium, and large) of the companies;

''(II) capitalization of the companies;

''(III) region in which the companies are located; and

''(IV) products or services produced by the companies;

''(iii) compile aggregate data on revenues and unit sales of such companies, including information on international sales, for a recent reporting 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 companies;

''(iv) identify platform availability and usage, for those products and services that are electronic and information technology-related;

''(v) 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

''(vi) specify geographic segments for the companies, to determine whether there are significant distinctions in industry opportunities on 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''; 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) In carrying out this section, the Director shall emphasize covered activities that are collaborations between—

''(A) for-profit companies working in the assistive technology, rehabilitative engineering, or information technology fields; and

''(B) States or public or private agencies and organizations.

''(4) In carrying out this section, the Director shall emphasize covered activities that include plans for—

''(A) dissemination of educational materials, research results, or findings, conclusions, and recommendations resulting from covered activities; or

''(B) the commercialization of marketable products resulting from the covered activities.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''(18)'' each place it appears and inserting ''(19)'';

(B) in paragraph (2)—

(i) in subparagraph (A)(i), by striking ''rehabilitation services or'' and inserting ''rehabilitation services, developers or providers of assistive technology devices, assistive technology services, or information technology devices or services, or providers of'' after ''rehabilitation services'';

(ii) in subparagraph (B)—

(I) in clause (i), by inserting ''improve the evaluation process for determining the assistive technology needs of individuals with disabilities,'' after ''conditions,'';

(II) in clause (ii), by inserting ''and assistive technology services'' before the semicolon; and

(III) in clause (iii), by inserting '', assistive technology services personnel,'' before ''and other'';

(iii) in subparagraph (C)—

(I) in clause (i), by inserting '', including research on assistive technology devices, assistive technology services, and accessible electronic and information technology devices'' before the semicolon; and

(II) in clause (iii), by inserting '', including the use of assistive technology devices and accessible electronic and information technology devices in employment'' before the semicolon;

(iv) in subparagraph (D), by inserting '', including training to provide knowledge about assistive technology devices, assistive technology services, and accessible electronic and information technology devices and services,'' after ''personnel''; and

(v) in subparagraph (G)(i), by inserting '', assistive technology-related, and accessible electronic and information technology-related'' before ''courses''; and

(C) in paragraph (3)—

(i) in subparagraph (D)(ii), by adding at the end the following: ''Each such Center conducting activities including the creation of an assistance technology device shall include in the committee representatives from the assistive technology industry and accessible electronic and information technology industry. Each such Center conducting activities involving a covered school, or an employer, shall include in the committee a representative of the covered school, or of the employer, respectively.''; and

(ii) in subparagraph (G)(ii) by inserting ''the success of any commercialized product researched or developed through the Center,'' after ''disabilities,'';

(D) in paragraph (8), by inserting ''the Department of Commerce, the Small Business Administration,'' before ''other Federal agencies,'';

(E) in paragraph (13), in the matter preceding clause (i), by striking ''employment needs of individuals with disabilities'' and inserting ''employment needs, opportunities, and outcomes, including self-employment, supported employment, and telecommuting needs, opportunities, and outcomes, of individuals with disabilities, including older individuals with disabilities, and students with disabilities who are transitioning from school to postsecondary life, including employment''; and

(E) by adding at the end the following:

''(19) 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) ensure dissemination of research findings;

''(ii) provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities; and

''(iii) result in the establishment and maintenance of close working relationships between the disability, research, and business communities.'';

(3) in subsection (c)(2), by striking ''$500,000'' and inserting ''$750,000''; and

(4) by adding at the end the following:

''(d)(1) In awarding grants, contracts, or other financial assistance under this title, the Director shall award the financial assistance on a competitive basis.

''(2)(A) To be eligible to receive financial assistance described in paragraph (1) for a covered activity, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(B) The application shall include information describing—

''(i) measurable goals, and a timeline and specific plan for meeting the goals, that the applicant has set for addressing priorities related to—

''(I) commercialization of a marketable product (including a marketable curriculum or research) resulting from the covered activity;

''(II) in the case of a covered activity relating to technology, technology transfer;

''(III) in the case of research, dissemination of research results to, as applicable, government entities, individuals with disabilities, covered schools, the business community, the assistive technology community, and the accessible electronic and information technology community; and

''(IV) other matters as required by the Director; and

''(ii) information describing how the applicant will quantifiably measure the goals to determine whether the goals have been accomplished.

''(3)(A) 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.

''(B) 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. 436. REHABILITATION RESEARCH ADVISORY COUNCIL.

Section 205 of the Rehabilitation Act of 1973 (29 U.S.C. 765) is amended—

(1) in subsection (a), by inserting ''at least'' before ''12''; and

(2) in subsection (c), by inserting after ''rehabilitation researchers,'' the following: ''the directors of community rehabilitation programs, the business community (and shall include a representative of the small business community) that has experience with the system of vocational rehabilitation services carried out under this Act and with hiring individuals with disabilities, the community of assistive technology developers and manufacturers, the community of information technology vendors and manufacturers, the community of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.), the community of covered school professionals,''.

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)), a 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 period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(H) personnel trained in providing assistive technology services.'';

(2) in subsection (b)(1)(B)(i), 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 (b)(5)(A)(i), 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 support model demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work with students described in this paragraph, to enable the students to gain employment skills and experience that will promote effective transitions from 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 exclusively integrated community-based supported employment services;

''(D) have expertise in creating natural supports for employment;

''(E) have expertise in providing computer training for the targeted population for the project involved; and

''(F) have experience operating mentoring programs for the target population 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, contract, 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 in 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 based, including federally supported independent living centers.

''(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 for individuals, ages 14 through 21, who are students with intellectual disabilities or students with mental illness:

''(A) PROVIDING SUPPORTED AND COMPETITIVE EMPLOYMENT EXPERIENCES.—The development of innovative and effective supported and competitive employment experiences after school, on weekends, and in the summer, utilizing natural supports that lead to competitive high-paying jobs.

''(B) PROVIDING TRAINING TO SCHOOL AND TRANSITION PERSONNEL.—The development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students with intellectual disabilities or students with mental illness to be successful in competitive employment in a range of settings, including office settings. The training shall include training for the personnel in providing instruction to students in computer skills, office skills, interview etiquette, and appropriate social behavior required for successful long-term employment in professional environments.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.

''(d) DEMONSTRATION PROJECT FOR EMPLOYMENT OF INDIVIDUALS WHO ARE DEAF AND LOW FUNCTIONING.—

''(1) PURPOSE.—The purpose of this subsection is to support a model demonstration project to provide training and employment and support services for individuals who are deaf and low functioning to enable them to gain employment skills that will allow them to become employed and economically self-sufficient.

''(2) DEFINITION.—

''(A) IN GENERAL.—In this subsection, the term 'individual who is deaf and low functioning' means an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a secondary school diploma or its recognized equivalent.

''(B) SECONDARY DISABILITIES.—Such term may include an individual with a secondary disability.

''(3) GRANTS AUTHORIZED.—

''(A) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants to State agencies, other public agencies or organizations, or not-for-profit organizations with expertise in providing training and employment and support services for individuals who are deaf and low functioning to support model demonstration projects.

''(B) DURATION.—Grants under this subsection shall be awarded for a period not to exceed 5 years.

''(4) AUTHORIZED ACTIVITIES.—

''(A) DEVELOPING A COMPREHENSIVE TRAINING PROGRAM.—Each grant recipient under this subsection shall develop an innovative, comprehensive training program for individuals who are deaf and low functioning that can be implemented at multiple training locations through such means as distance learning and use of advanced technology, as appropriate. Such training program shall be developed to maximize the potential for replication of the program by other training providers.

''(B) IMPLEMENTATION.—Each grant recipient under this subsection shall implement the comprehensive training program developed under subparagraph (A) as soon as feasible. Such training shall provide instruction on the job and the social skills necessary for successful long-term employment of individuals who are deaf and low functioning.

''(C) ESTABLISHING A POST-TRAINING PROGRAM OF EMPLOYMENT AND SUPPORT SERVICES.—Each grant recipient under this subsection shall implement employment and

support services to assist individuals who complete the training program under subparagraph (A) in securing employment and transitioning to the workplace, for a period of not less than 90 days 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 information as the Secretary may require including—

''(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 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 functioning.

''(6) MANDATED EVALUATION AND DISSEMINATION ACTIVITIES.—

''(A) ANNUAL REPORT.—Not later than 2 years after the date on which a grant under this subsection is awarded and annually thereafter, the grant recipient shall submit to the Commissioner a report containing information on—

''(i) the number of individuals who are participating in the demonstration project funded under this subsection;

''(ii) the employment and other skills being taught in the project;

''(iii) the number of individuals participating in the project that are placed in employment;

''(iv) the job sites in which those individuals are placed and the type of jobs the individuals 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 for determining the results of the project within the timeframe specified in, and following the provisions of, the approved application.

''(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 evaluation report of the results of the model demonstration project containing—

''(i) information on—

''(I) the number of individuals who participated in the demonstration project;

''(II) the number of those individuals that are placed in employment;

''(III) the job sites in which those individuals were placed and the type of jobs the individuals were placed in;

''(IV) the number of those individuals who have dropped out of the project and the reasons for their terminating participation in the project; and

''(V) the number of those individuals who participated in the project 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, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed through the project; and

''(iii) such other information as the Secretary determines appropriate.

''(D) DISSEMINATION.—Not later than 5 years after the date on which a grant is awarded under this subsection, the evaluation report containing results of activities funded by such grant shall be disseminated to designated State agencies, school systems providing instruction to students who are individuals who are deaf and low functioning, supported employment providers, postsecondary vocational training programs, employers, the Social Security Administration, and other interested parties.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011.

''(e) TRAINING AND TECHNICAL ASSISTANCE CENTER TO PROMOTE HIGH-QUALITY EMPLOYMENT OUTCOMES FOR INDIVIDUALS RECEIVING SERVICES FROM DESIGNATED STATE AGENCIES.—

''(1) IN GENERAL.—The Commissioner shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

''(A) responds to State-specific information requests concerning high-quality employment outcomes, from designated State agencies funded under title I, including—

''(i) requests for information on the expansion of self-employment, business ownership, and business development opportunities, and other types of entrepreneural employment opportunities for individuals with disabilities;

''(ii) requests for information on the expansion and improvement of transition services to facilitate the transition of students with disabilities from school to postsecondary life, including employment;

''(iii) requests for examples of policies, practices, procedures, or regulations, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

''(iv) requests for information on effective approaches to enhance informed choice and a consumer-directed State vocational rehabilitation system;

''(v) requests for assistance developing corrective action plans;

''(vi) requests for assistance in developing and implementing effective data collection and reporting systems that measure the outcomes of the vocational rehabilitation services, and preparing reports for the Commissioner as described in section 106(b)(1); and

''(vii) requests for information on effective approaches that enhance employment outcomes for individuals with disabilities, including conducting outreach and forming partnerships with business and industry; and

''(B) provides State-specific, regional, and national training and technical assistance concerning vocational rehabilitation services and related information to designated State agencies, including—

''(i) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect vocational rehabilitation programs authorized under title I;

''(ii) enabling the designated State agencies to coordinate training and data collection efforts with one-stop centers established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e));

''(iii) enabling the designated State agencies to provide information on how the vocational rehabilitation programs authorized under title I can provide technical assistance to the one-stop centers on making programs offered through the centers physically and programmatically accessible to individuals with disabilities;

''(iv) sharing evidence-based and promising practices among the vocational rehabilitation programs;

''(v) maintaining an accessible website that includes links to—

''(I) the vocational rehabilitation programs;

''(II) appropriate Federal departments and agencies, and private associations;

''(III) State assistive technology device and assistive technology service demonstration programs, device loan programs, device reutilization programs, alternative financing systems, or State financing activities, operated through, or independently of, comprehensive statewide programs of technology-related assistance carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), telework programs, and other programs that provide sources of funding for assistive technology devices; and

''(IV) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities;

''(vi) enhancing employment outcomes for individuals with mental illness and individuals with cognitive disabilities;

''(vii) convening experts from the vocational rehabilitation programs to discuss and make recommendations with regard to the employment of individuals with disabilities and national emerging issues of importance to individuals with vocational rehabilitation needs;

''(viii) enabling the designated State agencies to provide practical information on effective approaches for business and industry to use in employing individuals with disabilities, including provision of reasonable accommodations;

''(ix) providing information on other emerging issues concerning the delivery of publicly funded employment and training services and supports to assist individuals with disabilities to enter the workforce, achieve improved outcomes, and become economically self-sufficient; and

''(x) carrying out such other activities as the Secretary may require.

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an entity shall have (or agree to award a grant or contract to an entity that has)—

''(A) experience and expertise in administering vocational rehabilitation services;

''(B) documented experience with and knowledge about self-employment, business ownership, business development, and other types of entrepreneural employment opportunities and outcomes for individuals with disabilities, providing transition services for students with disabilities, and assistive technology; and

''(C) the expertise necessary to identify the additional data elements needed to provide comprehensive reporting of activities and outcomes of the vocational rehabilitation programs authorized under title I, and experience in utilizing data to provide annual reports.

''(3) COLLABORATION.—In developing and providing training and technical assistance under this subsection, a recipient of a grant, contract, or cooperative agreement under this subsection shall collaborate with other organizations, in particular—

''(A) agencies carrying out vocational rehabilitation programs under title I and national organizations representing such programs;

''(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 and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites.

''(2) AUTHORIZATION OF PROGRAM.—The Commissioner is authorized to make grants to States and governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Federal share of the cost of establishing or expanding a telework program.

''(3) APPLICATION.—A State or Indian tribe that desires to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall establish or expand a telework program that shall provide assistance through loans or other alternative financing mechanisms to individuals with disabilities. The State or Indian tribe shall provide the assistance through the program to enable such individuals to purchase computers or other equipment, including adaptive equipment, to facilitate access to employment and enhance employment outcomes by providing the individual with the opportunity—

''(i) to work from home or other telework sites so that such individuals are able to telework; or

''(ii) to become self-employed on a full-time or part-time basis from home or other telework sites.

''(B) DEVELOPMENT OF TELEWORK OPPORTUNITIES AND BUSINESS PLANS.—A State or Indian tribe that receives a grant under this subsection may use not more than 10 percent of the grant award to develop telework opportunities with employers and assist in the development of business plans for individuals with disabilities interested in self-employment, before such individuals apply for assistance through the telework program.

''(C) SELF EMPLOYMENT.—A State or Indian tribe that receives a grant under this subsection shall enter into cooperative agreements with small business development centers for the development of business plans as described in section 103(a)(13) for individuals described in subparagraph (B), and provide assurances that the State or Indian tribe will, through plans to achieve self-support, vocational rehabilitation services, or other means, identify ways for the individuals described in subparagraph (B) to pay for the development of business plans, before such individuals apply for assistance through the telework program.

''(D) DEFINITIONS.—In this paragraph:

''(i) PLAN TO ACHIEVE SELF-SUPPORT.—The term 'plan to achieve self-support' means a plan described in sections 416.1180 through 416.1182 of title 20, Code of Federal Regulations (or any corresponding similar regulation or ruling).

''(ii) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'small business development center' means a center established under section 21 of the Small Business Act (15 U.S.C. 648).

''(5) FEDERAL SHARE.—The Federal share of the cost of establishing or expanding a telework program under this section shall be 10 percent of the cost.

''(6) EXISTING GRANT RECIPIENTS.—An entity that receives a grant under the Access to Telework Fund Program under subsection (b) for a fiscal year may use the funds made available through that grant for that fiscal year in accordance with this subsection rather than subsection (b).

''(7) ANNUAL REPORT.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall prepare and submit an annual report to the Commissioner.

''(B) CONTENTS.—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 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.

''(IV) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, a description of such sources.

''(V) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, the hourly salary the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or other alternative financing mechanism under the program.

''(VI) Whether 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.

''(ii) An analysis of the individuals with disabilities that have benefited from the program.

''(iii) Any other information that the Commissioner may require.''; and

(5) in subsection (i), as redesignated by paragraph (2)—

(A) by striking ''this section'' and inserting ''this section (other than subsections (c) and (d))''; and

(B) by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 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 442(2) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

''(i) GRANTS FOR DISABILITY CAREER PATHWAYS PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (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 involved, 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 the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(2) 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, in fields pertinent to individuals with disabilities, and particularly pertinent to the employment of individuals with disabilities.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection on behalf of a consortium, an 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 center established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(vii) the local business community;

''(B) the collaborative working relationships 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 and expertise of the institution of higher education—

''(i) to coordinate training and education related to disability studies and leadership development with educational institutions and disability-related organizations; and

''(ii) to conduct such training and education effectively.

''(4) 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.

''(5) MANDATORY USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium shall ensure that the consortium shall use the grant funds to—

''(A) encourage interest in, enhance awareness and understanding of, and provide educational opportunities in, 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 developed by the consortium 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 or a further degree, in a disability-related field;

''(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 parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the consortium, concerning the program of education and training carried out by the consortium.

''(8) REVIEWS.—

''(A) ADVISORY 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. The committee shall directly advise the governing board of the institution of higher education in the consortium about the views and recommendations of the advisory committee resulting from the review.

''(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 FARMWORKERS.

Section 304(b) of the Rehabilitation Act of 1973 (29 U.S.C. 774(b)) 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.

Section 405 of the Rehabilitation Act of 1973 (29 U.S.C. 785) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle E—Rights and Advocacy

SEC. 461. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

Section 502(j) of the Rehabilitation Act of 1973 (29 U.S.C. 792(j)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 462. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) is amended—

(1) in subsection (c)(1)(A), by inserting ''a grant for'' after ''to provide'';

(2) in subsection (g)(2), by striking ''was paid'' and inserting ''was paid, except that program income generated from the amount paid to an eligible system shall remain available to such system until expended''; and

(3) in subsection (*l*), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle F—Employment Opportunities for Individuals With Disabilities

SEC. 471. PROJECTS WITH INDUSTRY.

Section 611(a) of the Rehabilitation Act of 1973 (29 U.S.C. 795(a)) is amended—

(1) in paragraph (1), 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 (iii), 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:

''(v) coordinate activities with the Job Corps center industry councils established under section 154 of the Workforce Investment Act of 1998 (29 U.S.C. 2894);''.

SEC. 472. PROJECTS WITH INDUSTRY AUTHORIZATION OF APPROPRIATIONS.

Section 612 of the Rehabilitation Act of 1973 (29 U.S.C. 795a) 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.

Section 628 of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

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. 795c) 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 are 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) individuals with significant disabilities from nursing homes and other institutions, including institutions 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 significant disabilities.''.

SEC. 482. STATEWIDE INDEPENDENT LIVING COUNCIL.

Section 705(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(b)) 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 voting membership of the Council.''.

SEC. 483. INDEPENDENT LIVING SERVICES AUTHORIZATION OF APPROPRIATIONS.

Section 714 of the Rehabilitation Act of 1973 (29 U.S.C. 796e–3) 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. 796f) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) ALLOTMENTS 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) ALLOTMENTS 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) ALLOTMENTS 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 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

''(B) 1/56 of 50 percent of the additional appropriation.''; and

(2) by adding at the end the following:

''(e) CARRYOVER AUTHORITY.—Notwithstanding any other provision of law—

''(1) any funds appropriated for a fiscal year to carry out a grant program under section 722 or 723, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year; and

''(2) any amounts of program income received by recipients under a grant program under section 722 or 723 in a fiscal year, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year.''.

SEC. 485. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

Section 722(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–1(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(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 STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–2(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(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 725(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.

''(B) SERVICES.—The services shall include, as appropriate—

''(i) facilitating transitions of—

''(I) youth who are 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) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

''(ii) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

''(iii) promoting home ownership among individuals with significant disabilities.''.

SEC. 488. CENTERS FOR INDEPENDENT LIVING AUTHORIZATION OF APPROPRIATIONS.

Section 727 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–6) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 489. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Chapter 2 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796j et seq.) is amended—

(1) by redesignating sections 752 and 753 as sections 753 and 754, 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 to carry out this chapter exceed the funds appropriated to carry out this chapter for fiscal year 2003, the Commissioner shall first reserve from such excess, to provide training and technical assistance to designated State agencies for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this chapter for the fiscal year involved.

''(b) ALLOCATION.—From the funds reserved under subsection (a), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to provide training and technical assistance with respect to planning, developing, 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) REVIEW.—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 at such time, in such manner, 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 redesignating 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 (c)—

(A) in paragraph (1), by striking ''section 753'' and inserting ''section 754''; and

(B) in paragraph (2)—

(i) by striking ''subsection (j)'' and inserting ''subsection (i)''; and

(ii) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(5) in subsection (g), by inserting '', or contracts with,'' after ''grants to'';

(6) in subsection (h), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking ''subsection (j)(4)'' and inserting ''subsection (i)(4)''; and

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by adding ''and'' after the semicolon;

(ii) in subparagraph (B)(ii)(III), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C); and

(7) in subsection (i), as redesignated by paragraph (2)—

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

''(2) MINIMUM ALLOTMENT.—

''(A) STATES.—In the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, the amount 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 ⅓ of 1 percent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year and available for allotments under subsection (a).

''(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the amount referred to in paragraph (1)(A) for a fiscal year is $60,000.'';

(B) in paragraph (3)(A), by striking ''section 753'' and inserting ''section 754, and not reserved under section 752,''; and

(C) in paragraph (4)(B)(i), by striking ''subsection (i)'' and inserting ''subsection (h)''.

SEC. 491. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND 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''.

Subtitle H—Miscellaneous

SEC. 495. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of the Helen Keller National Center Act (29 U.S.C. 1907(h)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

TITLE V—TRANSITION AND EFFECTIVE DATE

SEC. 501. TRANSITION PROVISIONS.

The Secretary of Labor 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 of Education 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 increase the opportunities 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 community.

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 number 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. Providers can move adults directly to skills training, or create training programs that include literacy and language skills as well, so that job training is not delayed.

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 coordinate 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 reauthorization 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 receive the services 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, enhanced, and fairly rewarded in communities and workplaces across the nation.

The bill also contains the Adult Literacy Act, which funds critical programs for states to assist adults in obtaining the basic reading, writing, numeracy and English language skills that they need to be full participants in the workplace and in society.

We all know that education is the great equalizer. Improving basic literacy is a key component of job training. Large numbers of persons are on waiting lists across the country to be served under this program—25,000 people in Massachusetts alone—and we need to do more to serve adults who recognize their need to improve these skills in order to improve their lives.

I commend my colleagues and the many organizations representing governors, mayors, county officials, youth, women, and low-income persons who were so actively involved in preparing this legislation. We have tried to listen carefully to the many leaders who have practical experience in implementing these laws.

I look forward to continuing this bipartisan effort and to the early enactment of this needed legislation.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

Mr. SMITH. Mr. President, water and energy are precious resources that we must manage as efficiently as possible. That is why I am joining with my colleagues Senator LINCOLN and Finance Chairman GRASSLEY to introduce the ''Resource Efficient Appliance Incentives Act of 2005.'' This bill would provide for manufacturers' tax credits of varying levels for certain energy and water efficient home appliances.

Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits for clothes washers. This bill provides graduated credits to appliance manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

To spur increased production, the bill provides that these tax credits would apply only to production that exceeds historical production levels, and requires a three-year rolling average to calculated this production baseline. The bill only applies to appliances manufactured in the United States. This will encourage innovation and investment in domestic manufacturing facilities, which employ about 95,000 Americans.

Energy savings from this bill would be significant. Super-energy efficient and water conserving clothes washers would have to use 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 88 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 ask unanimous consent that the text of legislation be printed in the RECORD.

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

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 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)—

''(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

''(i) is manufactured in calendar year 2006 or 2007, and

''(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

''(B) 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, and

''(iii) the energy and water savings amount, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2008, 2009, or 2010, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

''(C) REFRIGERATORS.—

''(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

''(I) is manufactured in calendar year 2005 or 2006, and

''(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) $125 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 2008.

''(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

''(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

''(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The energy savings amount is the lesser of—

''(i) the product of—

''(I) $3, and

''(II) 100 multiplied by the energy savings percentage, or

''(ii) $100.

''(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

''(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

''(ii) the EF required by the Energy Star program for dishwashers in 2007.

''(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

''(A) IN GENERAL.—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.

''(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

''(C) MEF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the MEF savings percentage is the ratio of—

''(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

''(ii) the MEF required by the Energy Star program for clothes washers in 2010.

''(D) WF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the WF savings percentage is the ratio of—

''(i) the WF required by the Energy Star program for clothes washers in 2010 minus the WF required by the Energy Star program for clothes washers in 2007, to

''(ii) the WF required by the Energy Star program for clothes washers in 2010.

''(c) ELIGIBLE PRODUCTION.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), 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 such 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.

''(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.

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1)(A),

''(2) clothes washers described in subsection (b)(1)(B)(i),

''(3) clothes washers described in subsection (b)(1)(B)(ii),

''(4) clothes washers described in subsection (b)(1)(B)(iii),

''(5) refrigerators described in subsection (b)(1)(C)(i),

''(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

''(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

''(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

''(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

''(e) LIMITATIONS.—

''(1) 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.

''(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

''(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 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.

''(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) with respect to such 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) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

''(i) clothes washers described in subsection (b)(1)(B)(i), and

''(ii) refrigerators described in subsection (b)(1)(C)(i).

''(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

''(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

''(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

''(3) 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 448(c) shall apply.

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1)(A),

''(B) any clothes washer described in subsection (b)(1)(B), and

''(C) any refrigerator described in subsection (b)(1)(C).

''(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

''(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

''(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

''(8) PRODUCED.—The term 'produced' includes manufactured.

''(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

''(g) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUP.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), 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, in consultation with the Secretary of Energy, determines necessary.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business 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:

''(20) the energy efficient appliance credit determined under section 45J(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D 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 new item:

''Sec. 45J. Energy efficient appliance credit''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, 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. 1023

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 ''Digital Opportunity Investment Trust Act''.

SEC. 2. ORGANIZATION.

(a) IN GENERAL.—There is established a nonprofit corporation to be known as the ''Digital Opportunity Investment Trust'' (referred to in this Act as the ''Trust'') which shall not be an agency or establishment of the United States Government. The Trust shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(b) FUNDING.—

(1) IN GENERAL.—There is established in the Treasury a separate fund to be known as the ''Digital Opportunity Investment Trust Fund'' (referred to in this Act as the ''Trust Fund''). The Trust Fund shall contain such amounts as are transferred to the Trust Fund under paragraph (2) and any interest earned on the investment of amounts in the Trust Fund under section 4.

(2) TRANSFER OF FUNDS.—The Secretary of the Treasury shall in each fiscal quarter through the last quarter of fiscal year 2028, transfer from the General Fund of the Treasury to the Trust Fund, an amount equal to 30 percent of the proceeds received by the Federal Government during the preceding fiscal quarter from any use (including any auction, sale, fee derived from, or other revenue generated from) of the electromagnetic spectrum conducted under section 309 (or any other section) of the Communications Act of 1934 (47 U.S.C. 309 (j)) (or any other provision of Federal law) after September 30, 2007.

(c) BOARD OF DIRECTORS; FUNCTIONS, AND DUTIES.—

(1) BOARD.—

(A) IN GENERAL.—A board of directors of the Trust (referred to in this Act as the ''Board'') shall be established to oversee the administration of the Trust. Such Board shall consist of 9 members to be appointed by the President, by and with the advice and consent of the Senate, who—

(i) reflect representation from the public and private sectors;

(ii) are not regular full-time employees of the Federal Government;

(iii) are eminent in such fields as telecommunications including public television, information technology, labor and workforce development, education, cultural and civic affairs, or the arts and humanities;

(iv) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Trust; and

(v) shall be responsible for establishing the priorities and funding obligations of the Trust.

(B) INITIAL MEMBERS.—The initial members of the Board shall serve as incorporators of the Trust and shall take whatever actions are necessary to establish the Trust under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(C) RECOMMENDATIONS.—The Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall jointly submit to the President recommendations of individuals, selected from nominations submitted to Congress from associations representing the fields of science and learning relative to the work of the Board, to serve as members of the Board.

(D) TERMS OF APPOINTMENT.—

(i) DATE.—Members of the Board shall be appointed not later than 90 days after the date of enactment of this Act.

(ii) TERMS.—

(I) IN GENERAL.—Except as provided in subclause (II), each member of the Board shall be appointed for a 6-year term with terms set to expire in non-Federal election years.

(II) STAGGERED TERMS.—With respect to the initial members of the Board—

(aa) 3 members shall serve for a term of 6 years;

(bb) 3 members shall serve for a term of 4 years; and

(cc) 3 members shall serve for a term of 2 years.

(iii) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(E) CHAIR AND VICE-CHAIR.—

(i) SELECTION.—The Board shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board and an individual to serve for a 2-year term as vice-Chair of the Board.

(ii) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(F) MEETINGS.—

(i) FIRST MEETING.—Not later than 30 days after the date on which all of the members of the Board have been confirmed by the Senate, the Chair of the Board shall call the first meeting of the Board.

(ii) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(G) BOARD PERSONNEL MATTERS.—

(i) COMPENSATION.—Members of the Board shall not receive compensation, allowances, or benefits by reason of the members' service on the Board.

(ii) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(H) SOLICITATION OF ADVICE.—The Board from time to time may solicit advice from—

(i) the Secretary of Health and Human Services;

(ii) the Secretary of Commerce;

(iii) the Secretary of Education;

(iv) the Secretary of Agriculture;

(v) the Secretary of Defense;

(vi) the Secretary of Energy;

(vii) the Secretary of Homeland Security;

(viii) the Secretary of the Interior;

(ix) the Secretary of Labor;
(x) the Administrator of the National Aeronautics and Space Administration;
(xi) the Director of the National Security Agency;
(xii) the Director of the National Science Foundation;
(xiii) the Director of the Office of Science and Technology Policy;
(xiv) the Director of the National Endowment for the Arts;
(xv) the Director of the National Endowment for the Humanities;
(xvi) the Director of the Institute of Museum and Library Services;
(xvii) the Librarian of Congress; and
(xviii) the President and Chief Executive Officer of the Corporation for Public Broadcasting.

(2) DIRECTOR.—A majority of the members of the Board shall select a Director of the Trust who shall serve at the discretion of the Board and shall be responsible for instituting procedures to carry out the policies and priorities established by the Board, and for hiring all personnel of the Trust. The rate of compensation of the Director and personnel shall be fixed by the Board.

(d) TRUST FUND USES.—

(1) USES OF FUNDS.—To achieve the objectives of this Act, the Director of the Trust, after consultation with the Board, may use Trust funds—

(A) to support the digitization of collections and other significant holdings of the nation's universities, museums, libraries, public television stations, and other cultural institutions;

(B) to support basic and applied research, including demonstrations of innovative learning and assessment systems as well as the components and tools needed to create them;

(C) to use the research results developed under subparagraph (B) to create prototype applications designed to meet learning objectives in a variety of subject areas and designed for learners with many different educational needs, including—

(i) strengthening instruction in reading, science, mathematics, history, and the arts in elementary and secondary schools, community colleges, and other colleges and universities;

(ii) providing the training needed for people now in the workplace to advance in a constantly changing work environment; and

(iii) developing new applications for lifelong learning in non-traditional learning environments such as libraries, museums, senior and community centers, and public television and radio;

(D) to conduct assessments of legal, regulatory, and other issues that must be resolved to ensure rapid development and use of advanced learning technologies; and

(E) to coordinate and disseminate information about initiatives throughout the Federal Government that focus on uses of technology in education and learning.

(2) CONTRACTS AND GRANTS.—

(A) IN GENERAL.—In order to carry out the activities described in paragraph (1), the Director of the Trust, with the agreement of a majority of the members of the Board, may award contracts and grants to nonprofit public institutions (with or without private partners) and for-profit organizations and individuals.

(B) PUBLIC DOMAIN.—

(i) IN GENERAL.—The research and development properties and materials associated with a project in which a majority of the funding used to carry out the project is from a grant or contract under this Act shall be freely and nonexclusively available to the general public.

(ii) EXEMPTION.—The Director of the Trust may exempt specific projects from the requirement of clause (i) if the Director of the Trust and a majority of the members of the Board determine that the general public will benefit significantly in the long run due to the project not being freely and nonexclusively available to the general public.

(C) EVALUATION OF PROPOSALS.—To the extent practicable, proposals for such contracts or grants shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director of the Trust from recommendations from the fields served and the Board of Directors.

(3) COOPERATION.—The Director of the Trust, after consultation with the Board, may cooperate with business, industry, philanthropy, noncommercial education broadcast, television and radio licensees and permittees, and local and national public service institutions, including in activities that seek to enhance the work of such public service institutions by seeking new ways to put telecommunications and information technologies to work in their areas of interest.

SEC. 3. ACCOUNTABILITY AND REPORTING.

(a) REPORT.—

(1) IN GENERAL.—Not later than April 30 of each year, the Director of the Trust shall prepare a report for the preceding fiscal year that contains the information described in paragraph (2).

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a comprehensive and detailed report of the Trust's operations, activities, financial condition, and accomplishments, and such recommendations as the Director of the Trust determines appropriate; and

(B) a comprehensive and detailed inventory of funds distributed from the Trust Fund during the fiscal year for which the report is being prepared.

(3) STATEMENT OF THE BOARD.—Each report under paragraph (1) shall include a statement from the Board containing—

(A) a clear description of the plans and priorities of the Board for the subsequent 5-year period for expenditures from the Trust Fund; and

(B) an estimate of the funds that will be available for such expenditures from the Trust Fund.

(4) SUBMISSION TO THE PRESIDENT AND CONGRESS.—A report under this subsection shall be submitted to the President and the appropriate committees of Congress.

(b) TESTIMONY.—The Chair of the Board, other members of the Board, and the Director and principal officers of the Trust shall testify before the appropriate committees of Congress, upon request of such committees, with respect to—

(1) a report prepared under subsection (a)(1); and

(2) any other matter that such committees may determine appropriate.

SEC. 4. INVESTMENT OF TRUST FUNDS.

(a) IN GENERAL.—The Secretary of the Treasury, after consultation with the Board, shall invest the funds of the Trust Fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(b) EXPENDITURES.—

(1) IN GENERAL.—The Director of the Trust shall not undertake grant or contract activities under this Act until the Trust has received the interest or other proceeds from the investment of the Trust Funds for not less than 1 year's duration. Thereafter, upon Board approval of the annual budget of the Trust, the Director of the Trust may commence such grant or contract activities at the start of each fiscal year.

(2) OBLIGATION OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in awarding grants or contracts or making other expenditures under this Act, the Director of the Trust shall not obligate funds from the Trust that exceed the proceeds received from the investment of the funds in the Trust Fund during the preceding fiscal year.

(B) CARRY OVER.—Funds from the Trust Fund that are available for obligation for a fiscal year that are not obligated for such fiscal year shall remain available for obligation for the succeeding fiscal year.

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 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)) 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 such 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, permitees, 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 nation's needs, 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 many resources on the OCS as we thought existed 30 years ago.

In fact, the Minerals Management Service—MMS—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 and 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 all 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 shares automatically 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 $564 million as a result of this law and the State of New Mexico received $365 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 energy needs, 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 based on 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 economic security by maintaining 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 request that any or all of 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 qualifies 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 took 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 explore 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 am 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: there were a number of 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

servicemen and women, and their families, to ensure that we provide them with adequate financial education so that they can make informed decisions about their future.

This bill will require the Department of Defense to provide consumer education for members of the armed forces and their spouses. It instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in the initial and recurring training for members of the military.

This bill also requires that counseling services on these issues be made available, upon request, to members and their spouses. I think it is very important to include the spouses in this program, because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while their husband or wife is deployed. This bill will require a permanent, trained counselor at military bases with at least 750 assigned personnel, and a part-time, equally capable counselor available at smaller bases with less than 750. By our calculations, this means about 230 installations will have full-time counselors.

Finally, regarding life insurance, this bill will take existing legislation and DoD policy one more step in the military member's favor. During counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance—SGLI—as well as other available products. It requires that any enlisted member in the grades of E1–E4 must provide confirmation that they have received counseling from their approved counselor or commander before entering into any new contract with a private sector life insurer. Our legislation will keep the current rule of a 7 day waiting period for allotments to take effect to facilitate time for counseling. Existing policies will not be impacted by our legislation.

I am pleased to be working on this issue with Senator COLLINS, my colleague on the Armed Services Committee, who has taken such a strong interest in ensuring proper financial education for our servicemembers.

In closing, I want to reiterate the importance of this bill to military families. If implemented, this legislation will ensure our military families are fully equipped to make informed decisions that will best meet their financial and insurance needs. In my view, this is a provision long overdue. Thank you.

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. 1028

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 ''Military Personnel Financial Services Education Act of 2005''.

SEC. 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

''(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) 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 concerned shall, upon request, provide counseling on financial services to the spouse of any member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall provide counseling on financial services under this subsection as follows:

''(A) In the case of members, and the spouses of members, assigned to a military installation to which at least 750 members of the armed forces are assigned, through a full-time financial services counselor at such installation.

''(B) In the case of members, and the spouses of members, assigned to a military installation other than an installation described in subparagraph (A), through such mechanisms as the Secretary considers appropriate, including through the provision of counseling by a member of the armed forces in grade E–7 or above, or a civilian, at such installation who provides such counseling as a part of the other duties performed by such member or civilian, as the case may be, at such installation.

''(3) Each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

''(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

''(5) The Secretary concerned may authorize financial services counseling to be provided to members of a unit of the armed forces by unit personnel under the guidance and with the assistance of a financial services counselor under paragraph (2)(A) or an 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, a financial services counselor under subsection (b)(2)(A), or an individual providing counseling on financial services under subsection (b)(2)(B), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

''(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, or by a financial services counselor referred to in subsection (b)(2)(A) or an individual providing counseling on financial services under subsection (b)(2)(B), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

''(B) Subject to subparagraph (C), 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 of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

''(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

''(D) In this paragraph, the term 'covered member of the armed forces' means a member of the armed forces in grades E–1 through E–4.

''(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.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Consumer education: financial services.''.

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Subsection (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased to join with Senator CLINTON on legislation that will address the persistent problems that we have experienced with the sale of inappropriate life insurance and investment products to our servicemen and women. Although these issues were newly publicized last year in a series of articles in the New York Times, these problems actually go back for decades according to a 2002 Defense Department report.

According to that report, deceptive practices have been employed to sell unnecessary and inappropriate financial products to our military for more than thirty years. Furthermore, these sales have been in violation of DoD's policies aimed at regulating the sale of commercial products on military bases.

One of the report's most alarming findings is that these practices have a ''clear and present'' effect on morale, discipline and unit integrity. It states:

Service members who have been coerced or deceived into buying insurance on a military installation blame not only the sales agents. The victims blame their military superiors for placing them in a position to be misled. The trust and respect that military leaders seek to instill in their subordinates are clearly reduced among those who have bought insurance that is of little or no value to them. This adversely affects the unit integrity.

The author of this study, an Army General and lawyer, spoke to numerous victims of these deceptive sales practices. He stated in his report that these soldiers told him that they had less trust in their military superiors after these incidents. They also expressed a reduced interest in reenlisting.

With so many of our troops in harm's way, it is time for Congress to take decisive action on this matter. Although DoD has issued another set of draft regulations, it is barred by statute from implementing these reforms until this fall. Moreover, I am not convinced that merely tightening the regulation of such sales on base will have the desired outcome of significantly reducing the sale of inappropriate insurance products.

The Clinton-Collins legislation would: establish a requirement that DoD provide real financial education for service members and their spouses; provide for financial counselors at military bases; and require that junior enlisted personnel receive information on their federally provided life insurance before allotting part of their pay toward the purchase of private life insurance products.

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 was ''substantially less than that 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 protection that they deserve.

While that report went much further in its recommendations, even recommending that such sales be barred, our legislation provides for more 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 underprepared, underfinanced, 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 working to close the gap in college 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 $4,000 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 PIRGs' Higher Education Project, the maximum Pell Grant covered 84 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 and 36 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 Early Outreach and State Partnerships—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 and persistence partnerships have 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 and Access Act—has 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 confront an overly burdensome and complex financial aid 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 when 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; phases 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 form that ensures students answer only the questions needed to determine financial aid eligibility in the State in which they reside; and creates a free telefile system for students without Internet access. Additionally, the FAFSA Act requires the Secretary, in cooperation with states and colleges, to develop a system for students to get early estimates of aid from multiple sources, learn if they qualify to fill out an EZ FAFSA, and notify those participating in Federal means-tested programs of their potential eligibility for a maximum Pell Grant. Simplified forms and an early information system providing details on what filling out these forms means to students is critical, particularly given the American Council on Education's findings that one of every five dependent low-income students and one of every four independent low-income students failed to take advantage of financial aid programs because they did not submit a FAFSA.

The FAFSA Act also expands college access for low-income students, in part by simplifying the application process for students with special circumstances, including students in foster care and emancipated youth; ensuring the equitable treatment of prepaid tuition and college savings plans; and reducing the work penalty. The current income protection allowance levels are unrealistically low, creating a disincentive for students to work in order to pay college costs.

We must act on these bills and others to make sure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I was pleased to work with the Advisory Committee on Student Financial Assistance and a host of other higher education organizations and charitable foundations on these bills.

I urge my colleagues to cosponsor these bills and work for their inclusion in the upcoming reauthorization of the Higher Education Act.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1029

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 ''Accessing College through Comprehensive Early Outreach and State Partnerships Act''.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.''.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking ''$5,000'' and inserting ''$12,500'';

(2) in paragraph (9), by striking ''and'' after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) provides notification to eligible students that such grants are—

''(A) Leveraging Educational Assistance Partnership Grants; and

''(B) funded by the Federal Government and the State.''.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

''SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

''(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

''(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

''(2) provide need-based access and persistence grants to eligible low-income students;

''(3) provide early notification to low-income students of their eligibility for financial aid; and

''(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

''(b) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

''(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

''(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

''(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(ii).

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year may not exceed 66.66 percent.

''(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

''(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or that provide funding in, the State or private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

''(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or that provide funding in, the State, and private corporations that are located in, or that do business in, the State, then the Federal

share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

''(c) APPLICATION FOR ALLOTMENT.—

''(1) IN GENERAL.—

''(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 the allotted funds.

''(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 the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's 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 zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

''(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

''(I) Leveraging Educational Assistance Partnership Grants; and

''(II) funded by the Federal Government and the State.

''(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

''(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

''(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State;

''(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

''(C) not less than 1—

''(i) philanthropic organization located in, or that provides funding in, the State; or

''(ii) private corporation located in, or that does business in, the State.

''(4) ROLES OF PARTNERS.—

''(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) serve as the primary administrative unit for the partnership;

''(II) provide or coordinate matching funds, and coordinate activities among partners;

''(III) encourage each institution of higher education in the State to participate in the partnership;

''(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

''(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

''(ii) may provide early information and intervention, mentoring, or outreach programs.

''(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

''(II) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

''(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

''(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

''(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

''(D) 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.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

''(B) AMOUNT.—

''(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

''(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, 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.

''(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

''(ii) 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 notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

''(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

''(i) shall include—

''(I) information about early information and intervention, mentoring, or outreach programs available to the student;

''(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

''(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

''(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of 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 in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

''(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

''(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

''(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

''(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

''(II) annual Federal and State appropriations; and

''(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 each such student meets not less than 1 of the following:

''(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

''(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

''(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

''(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

''(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

''(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

''(4) GRANT AWARD.—Once a student, including those who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

''(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

''(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

''(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

''(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

''(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

''(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

''(h) MAINTENANCE OF EFFORT REQUIREMENT.—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 or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

''(i) SPECIAL RULE.—Notwithstanding subsection (h), 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 1999 (including any such assistance provided under this subpart).

''(j) 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 under this section 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 award grants under section 415E 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. 1098(j)) is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon; and

(2) by striking paragraph (5) and inserting the following:

''(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, 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''.

S. 1030

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 Simplification 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. 1087ss) 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) file, or are eligible to file, a form described in paragraph (3);

''(II) certify that they are not required to file an income tax return;

''(III) 1 of whom is a dislocated worker; or

''(IV) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

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

''(i) the student (and the student's spouse, if any)—

''(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;

''(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''; and

(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, as appropriate, files'';

(2) in subsection (c)—

(A) in paragraph (1)—

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

''(A) the student's parents—

''(i) file, or are eligible to file, a form described in subsection (b)(3);

''(ii) certify that they are not required to file an income tax return;

''(iii) 1 of whom is a dislocated worker; or

''(iv) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

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

''(B) the sum of the adjusted gross income of the parents is less than or equal to $25,000; or'';

(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;

''(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''; and

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

''(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $25,000.''; 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 increases in the Consumer Price Index, as defined in section 478(f).''; and

(3) by adding at the end the following:

''(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 FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a mandatory spending

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 or family 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 under the Food Stamp Act of 1977 (7 U.S.C. 2011 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 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting ''a family member who is a dislocated 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)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—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(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 3 IMPROVING PAPER AND ELECTRONIC FORMS.

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(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 electronic application form described in section 483(a)(3)(B).''.

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(C) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

''(1) IN GENERAL.—

''(A) COMMON FINANCIAL REPORTING FORMS.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid' or 'FAFSA'.

''(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 applicant shall be permitted to update information submitted on a form described in this subsection completed prior to enrollment using the process described in paragraph (4).

''(2) PAPER FORMAT.—

''(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

''(B) EZ FAFSA.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

''(ii) REDUCED DATA REQUIREMENTS.—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 under section 479(c).

''(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

''(C) PHASING OUT THE PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE AUTOMATIC ZERO EXPECTED FAMILY CONTRIBUTION.—

''(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

''(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Financial Aid Form Simplification and Access Act, to the extent practicable, the Secretary shall phaseout the printing of the full paper Free Application for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

''(iii) AVAILABILITY OF FULL PAPER FAFSA.—

''(I) IN GENERAL.—Prior to and after the phaseout described in clause (ii), the Secretary shall maintain an online printable version of the paper forms described in subparagraphs (A) and (B).

''(II) ACCESSIBILITY.—The online printable version described in subclause (I) shall be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (3).

''(III) SUBMISSION OF FORMS.—The Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded and printed in order to meet the filing requirements of this section and to receive aid from programs established under this title.

''(iv) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—

''(I) IN GENERAL.—The Secretary shall utilize savings accrued by phasing out 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) REPORT.—The Secretary shall report annually 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 on steps taken 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 specifically address the impact of the digital divide on independent students, adults, and dependent students, including students completing applications described in this paragraph and paragraphs (3) and (4).

''(3) ELECTRONIC FORMAT.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—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). The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of paragraph (2)(B) and develop common electronic forms for applicants who meet the requirements of subparagraph (B) and common electronic forms for applicants who do not meet the requirements of subparagraph (B).

''(ii) 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 under paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant's State of residence.

(iii) STREAMLINED FORMAT.—The Secretary shall use, to the fullest 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 simplified electronic application form space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the simplified electronic application form.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(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 use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium of such entities, or such other entities as the Secretary may designate.

''(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

''(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

''(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

''(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

''(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

''(4) REAPPLICATION.—

''(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

''(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

''(C) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

''(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

''(5) STATE REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than 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.

''(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award need-based State aid and other application requirements that the States may impose.

''(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring each State agency to inform the Secretary—

''(i) if the agency is unable to permit applicants to utilize the forms described in paragraphs (2)(B) and (3)(B); and

''(ii) of the State-specific data that the agency requires for delivery of State need-based financial aid.

''(D) STATE NOTIFICATION TO THE SECRETARY.—

''(i) IN GENERAL.—Each State shall notify the Secretary—

''(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid; and

''(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

''(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

''(I) the State shall notify the Secretary if it is not permitted to do so because of either State law or because of agency policy; and

''(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete the forms described in paragraphs (2)(B) and (3)(B).

''(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

''(I) permit residents of that State to complete 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 nonfinancial 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).

''(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive 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 be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf except State agencies that have entered into an agreement with the Secretary to streamline applications, eligible institutions, or programs under this title as permitted by the Secretary.

''(7) APPLICATION PROCESSING CYCLE.—The Secretary shall, prior to 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

''(B) initiate the processing of a form under this subsection submitted by the student.''; and

(D) by adding at the end the following:

''(12) EARLY APPLICATION AND AWARD DEMONSTRATION PROGRAM.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall implement an early application demonstration program enabling dependent students to—

''(i) complete applications under this subsection in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education; and

''(ii) be eligible to receive aid under this title, aid from participants under this paragraph, State financial assistance as provided 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 the adverse effects, in terms of 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 at an institution of higher education. Additional objectives associated with implementation of the demonstration program are the following:

''(i) Measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in such students' junior year of secondary school, using information from the year prior to the year prior to enrollment, by completing any of the application forms under this subsection.

''(ii) Determine the feasibility, benefits, and adverse effects of implementing a data match with the Internal Revenue Service.

''(iii) 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.

''(iv) 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.

''(v) Effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of aid.

''(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions of higher education, States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions of higher education shall participate in programs under this title and be willing to make final financial aid awards to students

based on such students' application information from the year prior to the year prior to enrollment. Such awards may be contingent on the student being admitted to and enrolling in the participating institution the following year. The Secretary shall also select as participants in the demonstration program secondary schools that are located in the participating States and dependent students who reside in the participating States.

''(D) APPLICATION PROCESS.—The Secretary shall ensure that the following provisions are included in the demonstration program:

''(i) Participating States and institutions of higher education shall—

''(I) allow participating 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

''(II) award final financial aid awards to participating students based on the applications 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.

''(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 480(d).

''(E) 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.

''(F) 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).

''(G) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination of which States will be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within such participating States of the opportunity to participate in the demonstration program and of the participation requirements.

''(H) 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 striking subsection (b) and inserting the following:

''(b) EARLY AWARENESS OF AID ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

''(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

''(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, both through a widely disseminated printed form and the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of a form under subsection (a).

''(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit an individual to determine whether or not the individual may apply for aid using an EZ FAFSA described in subsection (a)(2)(B) or a simplified electronic application form described in subsection (a)(3)(B).

''(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

''(A) LOWER-INCOME STUDENTS.—The Secretary shall—

''(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell 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

''(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

''(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating 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'';

(4) by striking subsection (d);

(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 limit preparers of common financial reporting forms required to be made under this title from collecting source information, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

''(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 on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for free via paper or electronic forms provided by the Secretary;

''(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

''(C) not charge any fee to any individual seeking such services who meets the requirements 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:

''(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or another appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 663 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 483(a) over such system.''.

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089(a)(1)(B)) is amended to read as follows:

''(B) by March 1: proposed modifications and updates pursuant to sections 478, 479(c), and 483(a)(5) published in the Federal Register;''.

(e) SIMPLIFYING THE VERIFICATION PROCESS.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

''(s) VERIFICATION OF STUDENT ELIGIBILITY.—

''(1) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student's financial aid application in order to simplify the verification process for students and institutions.

''(2) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit a final report 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 on steps taken, 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 479, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 479 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(g) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(g)) is amended to read as follows:

''(g) STATE AND OTHER TAX ALLOWANCE.—

''(1) HOLD HARMLESS.—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, December 23, 2004 (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) PUBLICATION IN THE FEDERAL REGISTER.—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 of 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. 1087oo(g)(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. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

''(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

''(I) $10,000 for single or separated students;

''(II) $10,000 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. 1087qq(b)(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 prescribed by the Secretary under section 478):

''Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280.
For each additional college student, subtract $2,330.''.

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. 1087vv(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, in 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 OVERRIDE 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 application year.''.

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)), as amended by section 3, is further 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 that only contains those data elements required of independent students, as defined in section 480(d);

''(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 applications and determining 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.''.

SEC. 7. TREATMENT OF PREPAYMENT AND SAVINGS 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. 1087vv(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 considered 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; or

''(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—

''(A) 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

''(B) 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. 1087vv(j)) is amended—

(1) in the heading, by striking ''; TUITION PREPAYMENT PLANS'';

(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. 1087vv(a)(2)) is amended to read as follows:

''(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service 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)(3) 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 491 of the Higher Education Act of 1965 (20 U.S.C. 1098) 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 total amount 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 (4), by striking ''and'' after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; 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 eligibility, 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. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to reintroduce the Electric Reliability Act of 2005, which I am pleased to introduce with my colleagues, Senator CLINTON and Senator JEFFORDS. This legislation would give the Federal Energy Regulatory Commission—FERC—authority to devise a system of mandatory and enforceable standards for the reliable operation of our Nation's electricity grid.

Enactment of this bill is long overdue. The provisions of this bill have passed the United States Senate many times. They represent crucial steps forward in the effort to modernize our Nation's electricity grid and reform the rules by which it is operated. I believe this body can and must make necessary progress in upgrading our electricity grid.

As surely my colleagues recall, in August of 2003 much of the Northeast and Midwest suffered a massive power outage, affecting 50 million consumers from New York to Michigan. This blackout, the biggest in our Nation's history, has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2005. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those that break the rules and jeopardize the reliable energy service that is the foundation of our Nation's economy.

Following the August 2003 blackout in the NE, a joint report issued by the United States and Canada the following April recommended a number of policy changes on both sides of our shared border. The first recommendation in that report was to make reliability standards mandatory and enforceable with penalties for non-compliance. The Electric Reliability Security Act of 2005 does exactly that.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another 5 years. In 1997, both a Task Force established by the Clinton administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council—NERC—determined that reliability rules for our Nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, OR, caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including my home State of Washington. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the Southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I have introduced today passed this body in June 2000, when this Chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2005 as part of comprehensive energy legislation.

Today I am introducing the Electric Reliability Act of 2005 as I believe it is time for this body to take concrete steps towards ensuring the continued reliable operation of our electric grid. This legislation would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of electricity outages.

I ask my colleagues to support this bill.

By Mrs. BOXER:

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.

It had many good provisions, 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 had no 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 $625 million in port security grants. This is not enough. 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 $600 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's ports—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 KOLBE, FLAKE, and GUTIERREZ who are introducing the House companion bill.

While in 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 in key places. And yet, illegal immigration continues.

I would like to mention some startling statistics that demonstrate the critical need for immigration reform. I think the numbers speak for themselves: Over 300 people died last year trying to cross the border; about 200 of those deaths occurred in Arizona's desert. Last year 1.1 million illegal immigrants were caught by 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 ensure 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 are not here 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 to a halt. These millions of people are working. Aliens will not come forward to simply ''report and deport.'' We have a national interest in identifying these individuals, incentivizing them to come forward out of the shadows, go through security background checks, pay back taxes, pay penalties for breaking the law, learn to speak English, and regularize their status. Anyone who thinks this goal can be achieved without providing an eventual path to a permanent legal status is not serious about solving this problem.

Part of the failure of the existing system is its inability to provide sufficient legal channels to pair willing workers with willing employers. This bill establishes a new market-based temporary worker program so that when there is no U.S. worker to fill a job, employers will be able to hire willing and able foreign workers who have gone through security background checks, medical exams, and paid a fee for their visa. And, by doing away with outdated numerical caps on this program, this bill recognizes that the needs of the U.S. economy are constantly in flux, and our immigration system must match those needs.

I don't believe there is another issue that is more important to our Nation than immigration reform. For far too long, our Nation's broken immigration laws have gone unreformed, leaving Americans vulnerable. We can no longer afford to delay reform.

The complex and difficult problems associated with immigration reform will not be solved overnight, but they are among the most difficult challenges facing our Nation today. That is why it is so important that the President shares our commitment to comprehensive reform. Together with the President, I am committed to this process and remain very hopeful that we will succeed.

I want to especially express my appreciation to Senator KENNEDY and his staff for their sincere commitment to this critical issue. Also, the contributions to the bill as recommended by Senator BROWNBACK have been invaluable to this effort. I would also like to thank Senator LUGAR, who allowed us to incorporate critical international border enforcement provisions from his legislation, the North 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, KOLBE, and 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, restore 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, and 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 the U.S. It is not a guarantee of 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 residence, they must work 6 more 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 have no criminal or national security problems. 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 past 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 technology, improved 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 immigration control for all 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 unrealistic as policy, 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 honor 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 1994 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 and interested groups to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 137—DESIGNATING MAY 1, 2005, AS ''NATIONAL CHILD CARE WORTHY WAGE DAY''

Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources maybe reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designate May 1, 2005, as ''National Child Care Worthy Wage Day''; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

SENATE RESOLUTION 138—DESIGNATING JULY 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. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

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 surrounding 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''; and

(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. FRIST, 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 certain newly independent countries 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 Commitments'', on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude 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 new 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